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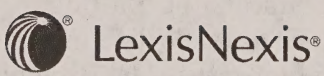

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TITLE 14

LOCAL GOVERNMENT

(CHAPTERS 54-103 IN VOLUME 10; CHAPTERS 104-182 IN VOLUME 11A; CHAPTERS 183-295 IN VOLUME 11B; CHAPTERS 296-387 IN VOLUME 12)

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SUBTITLE 1. GENERAL PROVISIONS

CHAPTER 1

GENERAL PROVISIONS

SUBCHAPTER.
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Subchapter 1 — General Provisions

SECTION.
14-1-102. Noncriminal fingerprinting — Fee.
14-1-103. Sanctuary policies prohibited — Definition. [Effective January 1, 2020.]

Effective Dates. Acts 2019, No. 1076, § 1: effective by its own terms Jan. 1, 2020.

14-1-102. Noncriminal fingerprinting — Fee.

A local law enforcement agency may charge a reasonable fee for noncriminal fingerprinting services to offset the cost of expenses associated with offering a noncriminal fingerprinting service.

History. Acts 2015, No. 163, § 1.

14-1-103. Sanctuary policies prohibited — Definition. [Effective January 1, 2020.]

(a)(1) A municipality shall not enact or adopt a sanctuary policy.

(2) A municipality that enacts or adopts a sanctuary policy is ineligible for discretionary moneys provided through funds or grants administered by the state until the sanctuary policy is repealed or no longer in effect.

(b) As used in this section, "sanctuary policy" means an order, ordinance, or law enforcement policy, whether formally enacted or informally adopted by custom or practice, that:

(1) Limits or prohibits a municipal official or person employed by the municipality from communicating or cooperating with federal agencies or officials to verify or report the immigration status of a person within the municipality;

(2) Grants to illegal immigrants the right to lawful presence or status within the municipality in violation of federal law;

(3) Violates 8 U.S.C. § 1373, as in effect January 1, 2019;

(4) Restricts or imposes any conditions upon the municipality's cooperation or compliance with detainers or other requests from United States Immigration and Customs Enforcement to maintain custody of

an immigrant or to transfer an immigrant to the custody of United States Immigration and Customs Enforcement;

(5) Requires United States Immigration and Customs Enforcement to obtain a warrant or demonstrate more than probable cause before complying with detainers or other legal and valid requests from United States Immigration and Customs Enforcement to maintain custody of an immigrant or to transfer an immigrant to the custody of United States Immigration and Customs Enforcement; or

(6) Prevents law enforcement officers from asking a person about his or her citizenship or immigration status.

(c)(1) Upon receiving a complaint from a resident of the state of a violation of this section by a municipality, the Attorney General shall issue an opinion stating whether the municipality is in violation of this section.

(2) If the Attorney General issues an opinion stating that the municipality has enacted or adopted a sanctuary policy that violates this section, the municipality is ineligible to receive discretionary moneys provided through funds or grants administered by the state until the Attorney General certifies that the sanctuary policy is repealed or no longer in effect.

(d)(1) Before the provision of funds or the award of grants is made to a municipality, a member of the General Assembly may request that the Attorney General issue an opinion stating whether the municipality has current policies in violation of this section.

(2) A municipality deemed ineligible for discretionary moneys under this section is ineligible to receive discretionary moneys provided through funds or grants administered by the state until the Attorney General certifies that the municipality is in full compliance with this section.

(e) A municipality may appeal a decision of the Attorney General under this section to the Pulaski County Circuit Court.

(f) Records created in connection with administrative investigations related to this section are not subject to the Freedom of Information Act of 1967, § 25-19-101 et seq.

History. Acts 2019, No. 1076, § 1.
Effective Dates. Acts 2019, No. 1076, § 1: effective by its own terms Jan. 1, 2020.

Subchapter 4 — Intrastate Commerce Improvement Act

SECTION.
14-1-401. Title.
14-1-402. Purpose — Finding.
SECTION.
14-1-403. Prohibited conduct.

Effective Dates. Acts 2015, No. 137, § 2: Emergency clause failed to pass. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there are seventy-five (75) counties and five hundred (500) cities and towns in the state; that each county, city, and town can create

its own local system for dealing with discrimination; and that this act is immediately necessary to create uniformity regarding discrimination laws across the state. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-1-401. Title.

This subchapter shall be known and may be cited as the "Intrastate Commerce Improvement Act".

History. Acts 2015, No. 137, § 1.
Publisher's Notes. Acts 2015, No. 137 became law without the Governor's signature.

14-1-402. Purpose — Finding.

(a) The purpose of this subchapter is to improve intrastate commerce by ensuring that businesses, organizations, and employers doing business in the state are subject to uniform nondiscrimination laws and obligations, regardless of the counties, municipalities, or other political subdivisions in which the businesses, organizations, and employers are located or engage in business or commercial activity.

(b) The General Assembly finds that uniformity of law benefits the businesses, organizations, and employers seeking to do business in the state and attracts new businesses, organizations, and employers to the state.

History. Acts 2015, No. 137, § 1.
Publisher's Notes. Acts 2015, No. 137 became law without the Governor's signature.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. John M. A. DiPippa, Bias in Disguise: The Constitutional Problems of Arkansas's Intrastate Commerce Improvement Act, 37 U. Ark. Little Rock L. Rev. 469 (2015).

CASE NOTES

Ordinance Invalid.

City of Fayetteville Ordinance 5781 violated the Intrastate Commerce Improvement Act, § 14-1-401 et seq., by extending the city's discrimination laws to include two classifications not previously included under state law, i.e., sexual orientation and gender identity, thereby creating a nonuniform nondiscrimination law. Protect Fayetteville v. City of Fayetteville, 2017 Ark. 49, 510 S.W.3d 258 (2017).

Ark. Const., Art. 12, § 4, states that "[n]o municipal corporation shall be authorized to pass any laws contrary to the general laws of the state", and case law has held that municipal corporations have only the power bestowed on them by statute or the state constitution; therefore, city ordinances that conflict with state statutes are void under the Arkansas Constitution. Protect Fayetteville v. City of Fayetteville, 2019 Ark. 30, 565 S.W.3d 477 (2019).

Supreme Court's prior opinion and

mandate operated as a binding adjudication that a Fayetteville ordinance violated Acts 2015, No. 137, codified as § 14-1-401 et seq., which prohibits a county, municipality, or other political subdivision of the state from adopting or enforcing an ordinance, resolution, rule, or policy that creates a protected classification or prohibits discrimination on a basis not contained in state law. Because the circuit court exceeded its jurisdiction on remand in denying appellants' motion for a preliminary injunction enjoining enforcement of the ordinance, its actions following remand were void. Protect Fayetteville v. City of Fayetteville, 2019 Ark. 30, 565 S.W.3d 477 (2019).

14-1-403. Prohibited conduct.

(a) A county, municipality, or other political subdivision of the state shall not adopt or enforce an ordinance, resolution, rule, or policy that creates a protected classification or prohibits discrimination on a basis not contained in state law.

(b) This section does not apply to a rule or policy that pertains only to the employees of a county, municipality, or other political subdivision.

History. Acts 2015, No. 137, § 1.
Publisher's Notes. Acts 2015, No. 137 became law without the Governor's signature.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. John M. A. DiPippa, Essay: Bias in Disguise: The Constitutional Problems of Arkansas's Intrastate Commerce Improvement Act, 37 U. Ark. Little Rock L. Rev. 469 (2015).

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CHAPTER 2
PUBLIC RECORDS GENERALLY

SUBCHAPTER.
1. General Provisions.
3. Uniform Real Property Electronic Recording Act.

Subchapter 1 — General Provisions

SECTION.
14-2-102. Records of military discharges.

Effective Dates. Acts 2017, No. 788, § 2: July 1, 2018.

14-2-102. Records of military discharges.

(a) It shall be the duty of the quorum court in each county of the State of Arkansas to appropriate from any moneys in the general fund any sum as may be necessary, not exceeding in any county the sum of one hundred dollars ($100), for providing a suitable record book for the purpose of recording military certificates of discharge.

(b) The record shall contain a complete copy of discharges and shall contain an index of the names of the discharged soldiers, sailors, airmen, marines, members of the United States Coast Guard, merchant marines, members of the Women's Army Auxiliary Corps, Women's Reserve of the United States Naval Reserve, nurses, and members of all other branches of the United States Armed Forces with reference to page, alphabetically arranged.

(c)(1) A military service discharge record or DD Form 214, the Certificate of Release or Discharge from Active Duty of the United States Department of Defense, filed with the county recorder for a veteran discharged from service less than seventy (70) years from the current date shall be confidential, kept in a secure location, and may be viewed or reproduced only by:

(A) The veteran;

(B) The veteran's spouse or child;

(C) A person with a signed and notarized authorization from the veteran;

(D) A funeral director who:

(i) Is licensed and regulated by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services under § 23-61-1101 et seq.;

(ii) Is assisting with the veteran's funeral arrangements; and

(iii) Presents a signed and notarized authorization from the veteran's spouse, child, or next of kin;

(E) A county or state veterans' service officer who is assisting the veteran or the veteran's family with a veteran's benefit application; or

(F) A person authorized by a court to view or copy the military service discharge record or DD Form 214 upon presentation of a court order.

(2) The county recorder shall record the names and addresses of all persons viewing or copying a military service discharge record or DD Form 214 under this subsection.

(3) No fee shall be charged for reproduction costs under this subsection.

(4) Upon petition by a veteran or other requestor eligible to view the records who has a notarized authorization from the veteran, the court may order the removal of the records from the county recorder's record book.

(d)(1) A military service discharge record for a veteran discharged from service more than seventy (70) years from the current date and filed with the county recorder shall be a public record.

(2) No fee shall be charged for reproduction cost under this subsection.

(e)(1) The county recorder may maintain a record book that contains any of the following information about veterans for public record:

(A) Name;

(B) Rank;

(C) Unit of military service;

(D) Dates of military service;

(E) Medals conferred upon veterans; and

(F) Awards conferred upon veterans.

(2) If the county recorder does not maintain a record book, then upon specific request for the information, the county recorder shall review a military service discharge record or DD Form 214 and provide only the information in subdivision (e)(1) of this section to the requestor, without allowing the requestor to review the military service discharge record or DD Form 214.

History. Acts 1943, No. 147, § 3; A.S.A. 1947, § 11-1707; Acts 2003, No. 275, § 1; 2005, No. 2208, § 1; 2005, No. 2249, § 1; 2017, No. 788, § 4.

Amendments. The 2017 amendment substituted "State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services under § 23-61-1101 et seq." for "State Board of Embalmers and Funeral Directors under § 17-29-201 et seq." in (c)(1)(D)(i).

Effective Dates. Acts 2017, No. 788, § 2: July 1, 2018.

Subchapter 3 — Uniform Real Property Electronic Recording Act

SECTION.
14-2-304. Recording of documents.

SECTION.
14-2-305. Administration and standards.

Effective Dates. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 129: May 23, 2016. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the membership and duties of certain agencies, task forces, committees, and commissions and repeals other governmental entities; that these revisions and repeals of governmental entities impact the expenses and operations of state government; and that the provisions of this act should become effective as soon as possible to allow for implementation of the new provisions in advance of the upcoming fiscal year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-2-304. Recording of documents.

(a) In this section, "paper document" means a document that is received by the county recorder in a form that is not electronic.

(b) A county recorder:

(1) who implements any of the functions listed in this section shall do so in compliance with standards established by the Electronic Recording Commission.

(2) may receive, index, store, archive, and transmit electronic documents.

(3) may provide for access to, and for search and retrieval of, documents and information by electronic means.

(4) who accepts electronic documents for recording shall continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index.

(5) may convert paper documents accepted for recording into electronic form.

(6) may convert into electronic form information recorded before the county recorder began to record electronic documents.

(7) may accept electronically any fee, tax, or revenue stamp that the county recorder is authorized to collect.

(8) may agree with other officials of a state or a political subdivision thereof, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees, taxes, or revenue stamps.

(9)(A) may enter into an agreement with a private entity to perform the duties under this section, including without limitation receiving, reviewing, scanning, and transmitting documents for electronic recording.

(B) An agreement under subdivision (b)(9)(A) of this section shall be a uniform agreement reviewed and formally approved by the commission.

History. Acts 2007, No. 734, § 1; 2017, No. 140, § 1.

A.C.R.C. Notes. The 2017 amendment to this section was not based upon an official revision of the Uniform Real Property Electronic Recording Act by the National Conference of Commissioners on Uniform State Laws.

Amendments. The 2017 amendment added (b)(9).

14-2-305. Administration and standards.

(a)(1) An Electronic Recording Commission consisting of eleven (11) members appointed by the Governor is created to adopt standards to implement this subchapter.

(2) A majority of the members of the commission must be county recorders.

(3) A member of the commission must be an active state legislator.

(4) A member of the commission shall serve a term of two (2) years.

(5) The terms of the current commission members on July 31, 2009, shall expire on September 1, 2009.

(6) Each member of the commission may receive expense reimbursement in accordance with § 25-16-901 et seq.

(b) To keep the standards and practices of county recorders in this state in harmony with the standards and practices of recording offices in other jurisdictions that enact substantially this subchapter and to keep the technology used by county recorders in this state compatible with technology used by recording offices in other jurisdictions that enact substantially this subchapter, the Electronic Recording Commission, so far as is consistent with the purposes, policies, and provisions of this subchapter, in adopting, amending, and repealing standards shall consider:

(1) Standards and practices of other jurisdictions;

(2) The most recent standards promulgated by national standard-setting bodies, such as the Property Records Industry Association;

(3) The views of interested persons and governmental officials and entities;

(4) The needs of counties of varying size, population, and resources; and

(5) Standards requiring adequate information security protection to ensure that electronic documents are accurate, authentic, adequately preserved, and resistant to tampering.

(c)(1) A staff member of the Association of Arkansas Counties shall be assigned to assist the Electronic Recording Commission.

(2) The staff member shall coordinate meetings, accumulate information, and provide general support to the commission.

History. Acts 2007, No. 734, § 1; 2009, No. 725, § 1; 2011, No. 1157, §§ 1, 2; 2016 (3rd Ex. Sess.), No. 2, § 27; 2016 (3rd Ex. Sess.), No. 3, § 27.

A.C.R.C. Notes. The 2009, 2011, and 2016 (3rd Ex. Sess.) amendments to this section were not based upon an official revision of the Uniform Real Property Electronic Recording Act by the National Conference of Commissioners on Uniform State Laws.

Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 1, provided:

"(a) The General Assembly finds:

"(1) State government provides vital functions that impact the lives of Arkansas citizens on a daily basis;

"(2) While these functions are important, it is equally important to ensure that state government operates efficiently and effectively to eliminate unnecessary spending of tax dollars and provide timely and quality services to Arkansas citizens; and

"(3) Issues such as the administrative organization of a governmental entity, the appointment structure of a governmental entity's governing board, and extraneous duties assigned to governmental entities hamper the operation of state government and result in unnecessary expenses and delays in the provision of state services.

"(b) It is the intent of this act to amend provisions of law applicable to certain agencies, task forces, committees, and commission to promote efficiency and effectiveness in the operations of state government as a whole."

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3 redesignated former (c) as (c)(1) and (2); substituted "Association of Arkansas Counties" for "Bureau of Legislative Research" in (c)(1); substituted "shall" for "will" in (c)(1) and (2); and made stylistic changes.

SUBTITLE 2. COUNTY GOVERNMENT

CHAPTER 14

COUNTY GOVERNMENT CODE

SUBCHAPTER.

1. General Provisions.
3. County Seats.
8. Legislative Powers.
9. Legislative Procedures.
10. Judicial Powers.
12. Personnel Procedures.
13. Officers Generally.

Subchapter 1 — General Provisions

SECTION.

14-14-107. Petitions.
14-14-114. Allocation of revenue.
14-14-115. Civil office-holding — Definition.

Effective Dates. Acts 2017, No. 751, § 9: Mar. 30, 2017. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that several uncodified acts involving the allocation of revenue within counties composed of dual judicial districts have been subject to misinterpretation by the courts; that to prevent litigation arising from varying interpretations of the uncodified acts, certain sections of these uncodified acts need to be repealed; and that this act is immediately necessary to ensure that the standard operating procedures of the affected counties and the Department of Finance and Administration are lawful. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-14-107. Petitions.

(a) Requirements. Whenever a petition is authorized in the conduct of county affairs, except initiative and referendum petitions as provided in §§ 14-14-914 — 14-14-918, unless the statute authorizing the petition establishes different criteria, the petition shall be valid if it is signed by fifteen percent (15%) of the qualified electors of the county or portion of the county affected by the petition, with the number of electors of the county or portion of the county to be determined in the manner set forth in subdivision (a)(6) of this section, and if the petition meets the following requirements:

(1) Qualified Electors. Petitions shall be signed only by qualified electors of the county in which the measure of local application is sought by petition. A qualified elector shall be defined as any person duly registered and qualified to vote pursuant to the provisions of Arkansas Constitution, Amendment 51;

(2) Signatures.

(A) The signatures on all petitions shall be the signatures evidenced by voter registration. A signature which is in substantial compliance with these requirements and which is readily identifiable from the additional information required from the signer on the petition shall be counted as sufficient.

(B) Penalty for Fraudulent Signature. Any person who shall sign any name other than his or her own to a petition, who shall knowingly sign his or her name more than once for the same measure, or who shall sign the petition when he or she is not a legal voter of the county when the measure is of local application to the county only shall be guilty of a felony and may be imprisoned in the state penitentiary for not less than one (1) year nor more than five (5) years;

(3) Statement of Purpose. The petition shall contain a statement of the purpose for which it is circulated sufficient to meet the specific criteria set out in the statute authorizing the petition;

(4) Filing of Petitions. All petitions relating to county affairs shall be directed to the judge of the county court and filed with the county clerk. All petitions, upon verification of sufficiency by the county clerk, shall be referred to the county quorum court during the next regular meeting of that body for consideration and disposition. However, a special meeting of the quorum court may be called as provided by law for the consideration and disposition of petitions;

(5) Verification of Petitions.

(A) Only legal voters shall be counted upon petitions.

(B)(i) Petitions may be circulated and presented in parts, but each part of any petition shall have attached to it the affidavit of the persons circulating the petition affirming that:

(a) All signatures on the petition were made in the presence of the affiant; and

(b) To the best of the affiant's knowledge and belief, each signature is genuine and the person signing is a legal voter.

(ii) No other affidavit or verification shall be required to establish the genuineness of signatures under subdivision (a)(5)(B)(i) of this section;

(6) Sufficiency of Petitions. The sufficiency of all county petitions shall be decided in the first instance by the county clerk, subject to review by the circuit court. The number of signatures required in a county petition shall be based on the total number of votes cast in the last general election for the office of circuit clerk, or the Office of Governor in cases where the office of circuit clerk may have been abolished;

(7) Challenge of Petition. If the sufficiency of any petition is challenged, that cause shall be a preference cause and shall be tried at once. However, the failure of the courts to reach a decision prior to the election, if an election is required, as to the sufficiency of any petition shall not prevent the question from being placed upon the ballot at the election named in the petition, nor militate against the validity of the measure if it shall have been approved by a vote of the people; and

(8) Amendment of Petitions. If the county clerk shall decide any petition to be insufficient, without delay he or she shall notify the sponsors of the petition and permit at least thirty (30) days from the date of the notification for correction. In the event of legal proceedings to prevent giving legal effect to any petition upon any grounds, the burden of proof shall be upon the person attacking the validity of the petition.

(b) Unwarranted Restrictions Prohibited.

(1) No law shall be passed to prohibit any person from giving or receiving compensation for circulating petitions, nor to prohibit the circulation of petitions, nor in any manner to interfere with the freedom of the people in procuring petitions.

(2) Laws shall be enacted prohibiting and penalizing perjury, forgery, and all other felonies or other fraudulent practices in the securing of signatures or filing of petitions.

(c) Declaration of Sufficiency. Within ten (10) calendar days from the date a petition was filed with the county clerk, the clerk shall determine the adequacy of the petition.

(d) Withdrawal of Signatures. Any person may in writing withdraw his or her signature from a petition at any time prior to the time of filing the petition with the county clerk. Unless otherwise specifically provided by law, no elector shall be permitted to withdraw his or her signature from a petition after it has been filed.

(e) Publication — Costs. All petitions under the provisions of this section shall be published as provided by law. All costs of any petition shall be borne by the petitioners.

History. Acts 1977, No. 742, § 6; 1979, No. 413, § 2; A.S.A. 1947, § 17-3106; Acts 2019, No. 383, § 1.

Amendments. The 2019 amendment added the (a)(5)(A) through (a)(5)(B) designations; in (a)(5)(B)(i), substituted "to it" for "thereto" and substituted "the petition" for "them"; substituted "on the peti-

tion" for "thereon" in (a)(5)(B)(i)*(a)*; and added "under subdivision (a)(5)(B)(i) of this section" in (a)(5)(B)(ii).

14-14-111. Electronic records.

CASE NOTES

Freedom of Information Act.

Circuit court abused its discretion in issuing a permanent injunction in favor of plaintiff competitor under the Freedom of Information Act of 1967, § 25-19-101 et seq., because the plaintiff failed to sue an entity covered under FOIA; the competitor could not sue a private corporation alone under FOIA and direct it to produce public records it possessed by virtue of its contracts with counties because the private corporation was not the custodian of the public records. The circuit court's conclusion that county officials were unnecessary parties to a dispute over access to their public records was clearly erroneous. Apprentice Info. Sys. v. DataScout, LLC, 2018 Ark. 146, 544 S.W.3d 39 (2018).

14-14-114. Allocation of revenue.

Revenues received by a county that contains within its boundary a circuit court composed of more than one (1) judicial district that was created by an uncodified act shall be allocated as determined by the quorum court and shall not be divided by the judicial district in which the revenues were collected.

History. Acts 2011, No. 1171, § 3; 2017, No. 751, § 8.

Amendments. The 2017 amendment substituted "Revenues received by a" for "A" at the beginning and substituted "more than one (1) judicial district that was created by an uncodified act shall be allocated as determined by the quorum court" for "both an east and a west judicial district that were created in 1883 shall enact an ordinance to establish that revenues received by the county shall be allocated for the entire county".

14-14-115. Civil office-holding — Definition.

(a)(1) A person elected or appointed to any of the following county offices shall not be elected or appointed to another civil office during the term for which he or she has been elected:

(A) County judge;
(B) Justice of the peace;
(C) Sheriff;
(D) Circuit clerk;
(E) County clerk;
(F) Assessor;
(G) Coroner;
(H) Treasurer;
(I) County surveyor; or
(J) Collector.

(2) An elected county official under subdivision (a)(1) of this section may run for a civil office during the term for which he or she has been elected.

(b)(1) As used in this section, "civil office" means any one (1) of the following elected or appointed positions, including without limitation:

(A) County election commissioner;

(B) Member of the Parole Board;

(C) Member of a school board;

(D) Prosecuting attorney or deputy prosecuting attorney;

(E) Constable;

(F) Sheriff or deputy sheriff;

(G) Chief of police or city police officer;

(H) City attorney;

(I) City council member;

(J) Member of a drainage improvement district board;

(K) Member of a public facilities board;

(L) Member of a soil conservation district board;

(M) Member of a county library board;

(N) Member of a rural development authority;

(O) Member of a rural waterworks facilities board or regional water distribution board;

(P) Member of an airport commission;

(Q) Member of a county or district board of health;

(R) Member of a levee board or levee improvement district board; and

(S) Member of the Career Education and Workforce Development Board.

(2) As used in this section, "civil office" does not include a position that a county official may be appointed to on an advisory board or task force established to assist:

(A) The Governor;

(B) The General Assembly;

(C) A state agency;

(D) A state department;

(E) A county office;

(F) A county department; or

(G) A subordinate service district.

(3) As used in this section, "civil office" does not include a position in which a county official is required to serve by law and that is related to the county official's duties, including without limitation:

(A) A member of an intergovernmental cooperation council;

(B) A member of a county equalization board;

(C) A member of a regional solid waste management district board;

(D) A member of a planning and development district board;

(E) A member of the Arkansas Commission on Law Enforcement Standards and Training;

(F) A member of the Electronic Recording Commission;

(G) A member of a county hospital board;

(H) A member of the Arkansas Workforce Development Board;

(I) A member of the State Board of Election Commissioners;

(J) A member of the Criminal Justice Institute Advisory Board for Law Enforcement Management Training and Education;

(K) A member of the Board of Trustees of the Arkansas Public Employees' Retirement System;

(L) A special judge appointment under Arkansas Constitution, Article 7, § 36;

(M) A member of the Arkansas 911 Board or any successor board; and

(N) A member of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.

(c) This section does not prevent a person:

(1) From being elected or appointed to an office under subdivision (a)(1) of this section if he or she held a civil office before January 1, 2017; or

(2) From continuing to hold a civil office the person held before appointment or election to an office under subdivision (a)(1) of this section.

History. Acts 2019, No. 639, § 1.

Subchapter 3 — County Seats

SECTION.
14-14-308. Emergency temporary location for political subdivision — Definition.

Effective Dates. Acts 2019, No. 193, § 2: Feb. 26, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there are meeting places of governing bodies across the state that are in disrepair; that often a meeting place needs to be closed and relocated temporarily; and that this act is immediately necessary because under current law a meeting place cannot be set up temporarily unless an emergency arises due to an enemy attack. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto".

14-14-308. Emergency temporary location for political subdivision — Definition.

(a)(1)(A) Whenever, due to an emergency, it becomes imprudent, inexpedient, or impossible to conduct the affairs of local government at the regular or usual place, the governing body of each political subdivision of this state may meet at any place in the county whether within or without the territorial limits of the political subdivisions on the call of the presiding officer or any two (2) members of the governing body.

(B) The governing body shall proceed to establish and designate by ordinance, resolution, or other manner alternate or substitute sites or

places as the emergency temporary location of government where all or any part of the public business may be transacted and conducted during the emergency situation.

(2) The sites or places may be in the county whether within or without the territorial limits of the political subdivisions.

(b)(1) During the period when the public business is being conducted at an emergency temporary location, the governing body and other officers of a political subdivision of this state shall have and possess and shall exercise at the location all of the executive, legislative, and judicial powers and functions conferred upon the governing body and officers by or under the laws of this state.

(2) All acts of the governing body and officers shall be as valid and binding as if performed within the territorial limits of their political subdivision.

(c) As used in this section, "political subdivisions" means all duly formed and constituted governing bodies created and established under authority of the Arkansas Constitution and laws of this state.

History. Acts 1977, No. 742, §§ 29-31; A.S.A. 1947, §§ 17-3307 — 17-3309; Acts 2019, No. 193, § 1.

Amendments. The 2019 amendment, in (a)(1)(A), deleted "resulting from the effects of enemy attack, or the anticipated effects of a threatened enemy attack" following "emergency", and deleted "thereof" following "usual place"; inserted "in the county whether" in (a)(1)(A) and in (a)(2); deleted "and may be within or without this state" from the end of (a)(2); inserted the second occurrence of "governing" in (b)(1); in (b)(2), deleted the former first sentence, and inserted "governing"; added "As used in this section" in (c); and made stylistic changes.

Subchapter 6 — Alternative Organizations

14-14-604. Offices excluded.

CASE NOTES

Constables.

While the plain language of § 14-14-1207 authorized reimbursement for district officials, a constable was not a district official, but a township officer under constitutional and statutory law, and thus, the statute did not authorize the reimbursement of expenses for constables, and the circuit court did not err in denying the constable's claim for expenses. Graves v. Greene County, 2013 Ark. 493, 430 S.W.3d 722 (2013).

Subchapter 8 — Legislative Powers

SECTION.
14-14-802. Providing of services generally.
14-14-808. Consistency with state rules or regulations required.
14-14-809. Concurrent powers.
14-14-813. Authority to regulate unsanitary conditions.

14-14-801. Powers generally.

RESEARCH REFERENCES

Ark. L. Rev. Jonathan L. Marshfield, Improving Amendment, 69 Ark. L. Rev. 477 (2016).

14-14-802. Providing of services generally.

(a) A county government, acting through the county quorum court, shall provide, through ordinance, for the following necessary services for its citizens:

(1) The administration of justice through the several courts of record of the county;

(2) Law enforcement protection services and the custody of persons accused or convicted of crimes;

(3) Real and personal property tax administration, including assessments, collection, and custody of tax proceeds;

(4) Court and public records management, as provided by law, including registration, recording, and custody of public records; and

(5) All other services prescribed by state law for performance by each of the elected county officers or departments of county government.

(b)(1) A county government, acting through the quorum court, may provide through ordinance for the establishment of any service or performance of any function not expressly prohibited by the Arkansas Constitution or by law.

(2) These legislative services and functions include, but are not limited to, the following services and facilities:

(A) Agricultural services, including:

(i) Extension services, including agricultural, home economic, and community development;

(ii) Fairs and livestock shows and sales services;

(iii) Livestock inspection and protection services;

(iv) Market and marketing services;

(v) Rodent, predator, and vertebrate control services; and

(vi) Weed and insect control services;

(B) Community and rural development services, including:

(i) Economic development services;

(ii) Housing services;

(iii) Open spaces;

(iv) Planning, zoning, and subdivision control services;

(v) Urban and rural development, rehabilitation, and redevelopment services; and

(vi) Watercourse, drainage, irrigation, and flood control services;

(C) Community services, including:

(i) Animal control services;

(ii) Cemetery, burial, and memorial services;

(iii) Consumer education and protection services;

(iv) Exhibition and show services;
(v) Libraries, museums, civic center auditoriums, and historical, cultural, or natural site services;
(vi) Park and recreation services; and
(vii) Public camping services;
(D) Emergency services, including:
(i) Ambulance services;
(ii) Civil defense services;
(iii) Fire prevention and protection services; and
(iv) Juvenile attention services;
(E) Human services, including:
(i) Air and water pollution control services;
(ii) Child care, youth, and senior citizen services;
(iii) Public health and hospital services;
(iv) Public nursing and extended care services; and
(v) Social and rehabilitative services;
(F) Solid waste services, including:
(i) Recycling services; and
(ii) Solid waste collection and disposal services;
(G) Transportation services, including:
(i) Roads, bridges, airports, and aviation services;
(ii) Ferries, wharves, docks, and other marine services;
(iii) Parking services; and
(iv) Public transportation services;
(H) Water, sewer, and other utility services, including:
(i) Sanitary and storm sewers and sewage treatment services; and
(ii) Water supply and distribution services;
(I) Job training services and facilities; and
(J) Other services related to county affairs.

History. Acts 1977, No. 742, § 70; A.S.A. 1947, § 17-3802; Acts 2017, No. 452, § 1.

Amendments. The 2017 amendment added (b)(2)(J) [now (b)(2)(I)].

14-14-805. Powers denied.

CASE NOTES

County Employees.

Former deputy's 42 U.S.C. § 1983 official capacity claim against a sheriff failed because the sheriff did not act as the final policymaker in terminating the deputy, as the sheriff's employment decisions were subject to review by the quorum court under this section. Thompson v. Shock, 852 F.3d 786 (8th Cir. 2017).

14-14-808. Consistency with state rules or regulations required.

(a) A county government exercising local legislative authority is prohibited the exercise of any power in any manner inconsistent with state law or administrative rule or regulation in any area affirmatively subjected by law to state regulation or control.

(b) The exercise of legislative authority is inconsistent with state law, rule, or regulation if it establishes standards or requirements which are lower or less stringent than those imposed by state law, rule, or regulation.

(c) An area is affirmatively subjected to state control if a state agency or officer is directed to establish administrative rules governing the matter or if enforcement of standards or requirements established by statute is vested in a state officer or agency.

History. Acts 1977, No. 742, § 76; A.S.A. 1947, § 17-3808; Acts 2019, No. 315, § 984.

Amendments. The 2019 amendment substituted "rules or regulations" for "regulation" in the section heading; inserted "rule or" and made similar changes in (a) and twice in (b); and deleted "and regulations" following "rules" in (c).

14-14-809. Concurrent powers.

(a) If a county government is authorized to regulate an area which the state by statute or administrative rule also regulates, the local government may regulate the area only by enacting ordinances which are consistent with state law or administrative rule.

(b) If a state statute or administrative rule prescribes a single standard of conduct, an ordinance is consistent if it is identical to the state statute or administrative rule.

(c) If a state statute or administrative rule prescribes a minimal standard of conduct, an ordinance is consistent if it establishes a standard which is the same as, or higher or more stringent than, the state standard.

(d) A county government may adopt ordinances which incorporate by reference state statutes and administrative rules in areas in which a local government is authorized to act.

History. Acts 1977, No. 742, § 77; A.S.A. 1947, § 17-3809; Acts 2019, No. 315, § 985.

Amendments. The 2019 amendment substituted "rule" for "regulation" and "rules" for "regulations" throughout the section.

14-14-813. Authority to regulate unsanitary conditions.

(a) To the extent that it is not inconsistent with the powers exercised by incorporated towns and cities of the first class and cities of the second class under § 14-54-901 et seq., counties are empowered to order the owner of real property within the county to:

(1) Abate, remove, or eliminate garbage, rubbish, and junk as defined in § 27-74-402, and other unsightly and unsanitary articles upon property situated in the county; and

(2) Abate, eliminate, or remove stagnant pools of water or any other unsanitary thing, place, or condition that might become a breeding place for mosquitoes and germs harmful to the health of the community.

(b) A copy of the order issued under subsection (a) of this section shall be posted upon the property and:

(1) Mailed to the last known address of the property owner by the county clerk or other person designated by the quorum court; or

(2) Published in accordance with § 14-14-104 if there is no last known address for the property owner.

(c)(1) If the property owner has not complied with the order within thirty (30) days after notice is given in accordance with subsection (b) of this section, the county may:

(A) Do either of the following:

(i) Take any necessary corrective actions, including repairs, to bring the property into compliance with the order; or

(ii) Remove or raze any structure ordered by the county to be removed or razed; and

(B) Charge the cost of any actions under subdivision (c)(1)(A) of this section to the owner of the real property.

(2) The county shall have a lien against the property for any unpaid cost incurred under subdivision (c)(1) of this section in addition to interest at the maximum legal rate.

(d) In all successful suits brought to enforce liens granted under this section, the county shall be reimbursed its costs, including title search fees and a reasonable attorney's fee.

(e) This section does not apply to:

(1) Land valued as agricultural property that is being farmed or otherwise used for agricultural purposes; or

(2) A parcel of land larger than ten (10) acres if the unsanitary condition on the parcel is not visible from a public road or highway.

History. Acts 2005, No. 1984, § 1; 2007, No. 126, § 1; 2007, No. 250, § 1; 2019, No. 383, § 2.

Amendments. The 2019 amendment rewrote the introductory paragraph of (b); deleted former (b)(1); redesignated former (b)(2)(A) and (b)(2)(B) as (b)(1) and (b)(2); and added the introductory language of (c)(1)(A).

Subchapter 9 — Legislative Procedures

SECTION.
14-14-903. Record of proceedings.
14-14-904. Procedures generally. [Effective until January 1, 2020.]
SECTION.
14-14-904. Procedures generally. [Effective January 1, 2020.]
14-14-917. Initiative and referendum elections.

Effective Dates. Identical Acts 2016 (3rd Ex. Sess.), Nos. 14 and 15, § 8: May 23, 2016. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that school districts that have chosen to hold their annual school election in November of this year are currently required to print separate ballots from the general election ballots at an extraordinary and unnecessary expense to taxpayers; that some voters in the annual school election this November will have to vote at a separate location for the general election and for the annual school election even though the elections are held on the same day which may decrease voter turnout and infringe upon the suffrage rights of those voters; and that this act is immediately necessary to ensure the voting rights of all

citizens of Arkansas and to eliminate unnecessary election costs. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 564, § 3: Jan. 1, 2020.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

14-14-903. Record of proceedings.

(a) MINUTES. The quorum court of each county shall provide for the keeping of written minutes which include the final vote on each ordinance or resolution indicating the vote of each individual member on the question.

(b) COUNTY ORDINANCE AND RESOLUTION REGISTER.

(1) There shall be maintained by each quorum court a county ordinance and resolution register for all ordinances, resolutions, and amendments to each, adopted and approved by the court.

(2)(A) Entries in this register shall be sequentially numbered in the order adopted and approved and shall be further designated by the year of adoption and approval.

(B) A separate sequential numbering system shall be maintained for both ordinances and resolutions.

(3) The register number shall be the official reference number designating an enactment.

(4) The register shall be maintained as a permanent record of the court and shall contain, in addition to the sequential register number, the following items of information:

(A) An index number which shall be the originating legislative agenda number of the enactment;

(B) The comprehensive title of the enactment;

(C) The type of ordinance or amendment: general, emergency, appropriation, initiative, or referendum;

(D) The date adopted by the quorum court;

(E) The date approved by the county judge, date of veto override, or date enacted by the electors;

(F) The effective date of the enactment;

(G) The expiration date of the enactment; and

(H) A recording index number designating the location of the enactments.

(c) Permanent Record of Ordinances and Resolutions.

(1)(A) There shall be maintained a permanent record of all ordinances and resolutions in which each enactment is entered in full after passage and approval, except when a code or budget is adopted by reference.

(B) When a code or budget is adopted by reference, the date and source of the code shall be entered.

(2)(A) The permanent record shall be so indexed to provide for efficient identification, location, and retrieval of all ordinances and resolutions by subject, register number, and date enacted.

(B) The permanent record indexing may be by book and page.

(d) Codification of Ordinances.

(1) At five-year intervals, county ordinances of a general and permanent nature enacted in each of the several counties shall be compiled into a uniform code and published.

(2)(A) A quorum court may codify county ordinances and revise the codification of county ordinances at other periodic times as it considers necessary.

(B) The county ordinance adopting the codification or revision:

(i) Shall be enacted and published in accordance with the requirements for the passage of county ordinances under this subchapter; and

(ii) May provide for the repeal of certain county ordinances and parts of county ordinances by the deletion or omission of them from the codification or revision.

(3) A quorum court shall file a code of county ordinances and subsequent revisions to the code of county ordinances with the county clerk under § 14-14-909(b).

(4) A code of county ordinances is prima facie evidence of the law contained within it.

History. Acts 1977, No. 742, § 96; A.S.A. 1947, § 17-4013; Acts 2015, No. 280, § 1.

Amendments. The 2015 amendment redesignated (d) as (d)(1); added (d)(2) through (4); and substituted "At five-year intervals, county ordinances of a general and permanent nature" for "No later than 1980 and at five-year intervals thereafter, all county ordinances" in (d)(1).

14-14-904. Procedures generally. [Effective until January 1, 2020.]

(a) Time and Place of Quorum Court Assembly.

(1)(A)(i) The justices of the peace elected in each county shall assemble and organize as a county quorum court body on the first regular meeting date after the beginning of the justices' term in office, or the county judge may schedule the biennial meeting date of the quorum court on a date in January other than the first regular meeting date of the quorum court after the beginning of the justices' term.

(ii) At the first regular meeting, the quorum court shall establish the date, time, and location of meetings of the quorum court.

(iii) The organizational ordinance adopted at the first regular meeting of the quorum court shall be effective upon adoption.

(B) Thereafter, the justices shall assemble each calendar month at a regular time and place as established by ordinance and in their respective counties to perform the duties of a quorum court, except that more frequent meetings may be required by ordinance.

(2) By declaration of emergency or determination that an emergency exists and the safety of the general public is at risk, the county judge may change the date, place, or time of the regular meeting of the quorum court upon twenty-four-hour notice.

(b) Levy of Taxes and Making of Appropriations.

(1)(A)(i) The quorum court at its regular meeting in November or December of each year shall levy the county taxes, municipal taxes, and school taxes for the current year.

(ii) Before the end of each fiscal year, the quorum court shall make appropriations for the expenses of county government for the following year.

(B) The Director of the Assessment Coordination Division may authorize an extension of up to sixty (60) days of the date for levy of taxes upon application by the county judge and county clerk of any county for good cause shown resulting from reappraisal or rollback of taxes.

(2) Nothing in this subsection shall prohibit the quorum court from making appropriation amendments at any time during the current fiscal year.

(3) If the levy of taxes is repealed by referendum, the county may adopt a new ordinance levying taxes within thirty (30) days after the referendum vote is certified.

(4) If a county court determines that the levy of taxes by the quorum court is incorrect due to clerical errors, scrivener's errors, or failure of a taxing entity to report the correct millage rate to the quorum court, the county court shall issue an order directing the county clerk to correct the error in order to correct the millage levy.

(5) If a determination is made under this subchapter or § 26-80-101 et seq. that the taxes levied by the quorum court are out of compliance with Arkansas Constitution, Article 14, § 3, as amended by Arkansas Constitution, Amendment 11, Arkansas Constitution, Amendment 40, and Arkansas Constitution, Amendment 74, then upon notice from the Director of the Division of Elementary and Secondary Education, the county court shall immediately issue an order directing the county clerk to change the millage levy to bring the taxes levied into compliance with Arkansas Constitution, Article 14, § 3, as amended by Arkansas Constitution, Amendment 11, Arkansas Constitution, Amendment 40, and Arkansas Constitution, Amendment 74.

(c) Special Meetings of Quorum Court.

(1) The county judge or a majority of the elected justices may call a special meeting of the quorum court upon at least twenty-four (24) hours' notice in such manner as may be prescribed by local ordinance.

(2) In the absence of procedural rules, the county judge or a majority of the elected justices may call a special meeting of the quorum court upon written notification of all members not less than two (2) calendar days prior to the calendar day fixed for the time of the meeting. The notice of special meeting shall specify the subjects, date, time, and designated location of the special meeting.

(3)(A) Notice of assembly of a county grievance committee or assembly of less than a quorum of the body, referred to under this section as a "regular committee" or "special committee", may be provided upon oral notice to the members of at least forty-eight (48) hours unless an emergency exists.

(B) If an emergency exists, written notice of at least twenty-four (24) hours stating the basis of the emergency shall be provided.

(d) Presiding Officer.

(1)(A) The county judge shall preside over the quorum court without a vote but with the power of veto.

(B) In the absence of the county judge, a quorum of the justices by majority vote shall elect one (1) of their number to preside but without the power to veto.

(2)(A) The presiding officer shall appoint all regular and special committees of a quorum court, subject to any procedural rules that may be adopted by ordinance.

(B) A regular committee or special committee of the quorum court shall not consist of more than a quorum of the whole body without the consent of the county judge.

(e) Procedural Rules and Attendance at Meetings.

(1) Except as otherwise provided by law, the quorum court of each county shall determine at the first regular meeting its rules of procedure, whether by Robert's Rules of Order or otherwise, and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance.

(2) The determination of rules of procedure under subdivision (e)(1) of this section shall be made at the first regular meeting of the quorum court in its organizational ordinance.

(f) Quorum. A majority of the whole number of justices composing a quorum court shall constitute a quorum and is necessary to conduct any legislative affairs of the county.

(g) Legislative Affairs. All legislative affairs of a quorum court shall be conducted through the passage of ordinances, resolutions, or motions.

(h) Majority Vote Required. All legislative actions of a quorum court, excluding the adoption of a motion, shall require a majority vote of the whole number of justices composing a quorum court unless otherwise provided by the Arkansas Constitution or by law. A motion shall require a majority vote of the whole number of justices composing a quorum for passage.

(i) COUNTY ORDINANCE. A county ordinance is defined as an enactment of compulsory law for a quorum court that defines and establishes the permanent or temporary organization and system of principles of a county government for the control and conduct of county affairs.

(j) COUNTY RESOLUTION. A county resolution is defined as the adoption of a formal statement of policy by a quorum court, the subject matter of which would not properly constitute an ordinance. A resolution may be used whenever the quorum court wishes merely to express an opinion as to some matter of county affairs, and a resolution shall not serve to compel any executive action.

(k) MOTION. A motion is defined as a proposal to take certain action or an expression of views held by the quorum court body. As such, a motion is merely a parliamentary procedure that precedes the adoption of resolutions or ordinances. Motions shall not serve to compel any executive action unless such action is provided for by a previously adopted ordinance or state law.

(l) ORDINANCES. Ordinances may be amended and repealed only by ordinances.

(m) RESOLUTIONS. Resolutions may be amended and repealed only by resolutions.

(n) INITIATIVE AND REFERENDUM. All ordinances shall be subject to initiative and referendum as provided for through Arkansas Constitution, Amendment 7.

History. Acts 1977, No. 742, § 85; 1979, No. 413, § 21; A.S.A. 1947, § 17-4002; Acts 1991, No. 406, § 1; 1997, No. 1300, § 24; 2001, No. 901, § 1; 2003 (2nd Ex. Sess.), No. 105, § 5; 2005, No. 252, § 1; 2011, No. 837, § 3; 2013, No. 127, § 2; 2013, No. 985, §§ 1, 2; 2015, No. 1174, §§ 1, 2; 2016 (3rd Ex. Sess.), No. 14, § 7; 2016 (3rd Ex. Sess.), No. 15, § 7; 2019, No. 910, §§ 2236, 2237.

Publisher's Notes. For text of section effective January 1, 2020, see the following version.

Amendments. The 2015 amendment redesignated former (a)(1)(A)(ii) as part of (a)(1)(A)(i); substituted "or" for "Alternatively" following "term in office" in (a)(1)(A)(i); added (a)(1)(A)(ii) and (iii); redesignated (e) as (e)(1); in (e)(1), inserted "at the first regular meeting" and inserted "whether by Robert's Rules of Order or otherwise"; and added (e)(2).

The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 14 and 15 inserted "or December" in (b)(1)(A)(i).

The 2019 amendment substituted "Division" for "Department" in (b)(1)(B); and substituted "Division of Elementary and Secondary Education" for "Department of Education" in (b)(5).

14-14-904. Procedures generally. [Effective January 1, 2020.]

(a) TIME AND PLACE OF QUORUM COURT ASSEMBLY.

(1)(A)(i) The justices of the peace elected in each county shall assemble and organize as a county quorum court body on the first regular meeting date after the beginning of the justices' term in office, or the county judge may schedule the biennial meeting date of the quorum court on a date in January other than the first regular meeting date of the quorum court after the beginning of the justices' term.

(ii) At the first regular meeting, the quorum court shall establish the date, time, and location of meetings of the quorum court.

(iii) The organizational ordinance adopted at the first regular meeting of the quorum court shall be effective upon adoption.

(B) Thereafter, the justices shall assemble each calendar month at a regular time and place as established by ordinance and in their respective counties to perform the duties of a quorum court, except that more frequent meetings may be required by ordinance.

(2) By declaration of emergency or determination that an emergency exists and the safety of the general public is at risk, the county judge may change the date, place, or time of the regular meeting of the quorum court upon twenty-four-hour notice.

(b) LEVY OF TAXES AND MAKING OF APPROPRIATIONS.

(1)(A)(i) The quorum court at its regular meeting in November or December of each year shall levy the county taxes, municipal taxes, and school taxes for the current year.

(ii)*(a)* Before the end of each fiscal year, the quorum court shall make appropriations for the expenses of county government for the following year.

(b) Upon the final passage of the annual appropriations ordinance under subdivision (b)(1)(A)(ii)*(a)* of this section, the county clerk shall publish the ordinance and annual budget on a website owned or maintained by the county, the state, or the Association of Arkansas Counties.

(B) The Director of the Assessment Coordination Division may authorize an extension of up to sixty (60) days of the date for levy of taxes upon application by the county judge and county clerk of any county for good cause shown resulting from reappraisal or rollback of taxes.

(2) Nothing in this subsection shall prohibit the quorum court from making appropriation amendments at any time during the current fiscal year.

(3) If the levy of taxes is repealed by referendum, the county may adopt a new ordinance levying taxes within thirty (30) days after the referendum vote is certified.

(4) If a county court determines that the levy of taxes by the quorum court is incorrect due to clerical errors, scrivener's errors, or failure of a taxing entity to report the correct millage rate to the quorum court, the county court shall issue an order directing the county clerk to correct the error in order to correct the millage levy.

(5) If a determination is made under this subchapter or § 26-80-101 et seq. that the taxes levied by the quorum court are out of compliance with Arkansas Constitution, Article 14, § 3, as amended by Arkansas Constitution, Amendment 11, Arkansas Constitution, Amendment 40, and Arkansas Constitution, Amendment 74, then upon notice from the Director of the Division of Elementary and Secondary Education, the county court shall immediately issue an order directing the county clerk to change the millage levy to bring the taxes levied into compliance with

Arkansas Constitution, Article 14, § 3, as amended by Arkansas Constitution, Amendment 11, Arkansas Constitution, Amendment 40, and Arkansas Constitution, Amendment 74.

(c) Special Meetings of Quorum Court.

(1) The county judge or a majority of the elected justices may call a special meeting of the quorum court upon at least twenty-four (24) hours' notice in such manner as may be prescribed by local ordinance.

(2) In the absence of procedural rules, the county judge or a majority of the elected justices may call a special meeting of the quorum court upon written notification of all members not less than two (2) calendar days prior to the calendar day fixed for the time of the meeting. The notice of special meeting shall specify the subjects, date, time, and designated location of the special meeting.

(3)(A) Notice of assembly of a county grievance committee or assembly of less than a quorum of the body, referred to under this section as a "regular committee" or "special committee", may be provided upon oral notice to the members of at least forty-eight (48) hours unless an emergency exists.

(B) If an emergency exists, written notice of at least twenty-four (24) hours stating the basis of the emergency shall be provided.

(d) Presiding Officer.

(1)(A) The county judge shall preside over the quorum court without a vote but with the power of veto.

(B) In the absence of the county judge, a quorum of the justices by majority vote shall elect one (1) of their number to preside but without the power to veto.

(2)(A) The presiding officer shall appoint all regular and special committees of a quorum court, subject to any procedural rules that may be adopted by ordinance.

(B) A regular committee or special committee of the quorum court shall not consist of more than a quorum of the whole body without the consent of the county judge.

(e) Procedural Rules and Attendance at Meetings.

(1) Except as otherwise provided by law, the quorum court of each county shall determine at the first regular meeting its rules of procedure, whether by Robert's Rules of Order or otherwise, and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance.

(2) The determination of rules of procedure under subdivision (e)(1) of this section shall be made at the first regular meeting of the quorum court in its organizational ordinance.

(f) Quorum. A majority of the whole number of justices composing a quorum court shall constitute a quorum and is necessary to conduct any legislative affairs of the county.

(g) Legislative Affairs. All legislative affairs of a quorum court shall be conducted through the passage of ordinances, resolutions, or motions.

(h) Majority Vote Required. All legislative actions of a quorum court, excluding the adoption of a motion, shall require a majority vote

of the whole number of justices composing a quorum court unless otherwise provided by the Arkansas Constitution or by law. A motion shall require a majority vote of the whole number of justices composing a quorum for passage.

(i) COUNTY ORDINANCE. A county ordinance is defined as an enactment of compulsory law for a quorum court that defines and establishes the permanent or temporary organization and system of principles of a county government for the control and conduct of county affairs.

(j) COUNTY RESOLUTION. A county resolution is defined as the adoption of a formal statement of policy by a quorum court, the subject matter of which would not properly constitute an ordinance. A resolution may be used whenever the quorum court wishes merely to express an opinion as to some matter of county affairs, and a resolution shall not serve to compel any executive action.

(k) MOTION. A motion is defined as a proposal to take certain action or an expression of views held by the quorum court body. As such, a motion is merely a parliamentary procedure that precedes the adoption of resolutions or ordinances. Motions shall not serve to compel any executive action unless such action is provided for by a previously adopted ordinance or state law.

(l) ORDINANCES. Ordinances may be amended and repealed only by ordinances.

(m) RESOLUTIONS. Resolutions may be amended and repealed only by resolutions.

(n) INITIATIVE AND REFERENDUM. All ordinances shall be subject to initiative and referendum as provided for through Arkansas Constitution, Amendment 7.

History. Acts 1977, No. 742, § 85; 1979, No. 413, § 21; A.S.A. 1947, § 17-4002; Acts 1991, No. 406, § 1; 1997, No. 1300, § 24; 2001, No. 901, § 1; 2003 (2nd Ex. Sess.), No. 105, § 5; 2005, No. 252, § 1; 2011, No. 837, § 3; 2013, No. 127, § 2; 2013, No. 985, §§ 1, 2; 2015, No. 1174, §§ 1, 2; 2016 (3rd Ex. Sess.), No. 14, § 7; 2016 (3rd Ex. Sess.), No. 15, § 7; 2019, No. 564, § 1; 2019, No. 910, §§ 2236, 2237.

Publisher's Notes. For text of section effective until January 1, 2020, see the preceding version.

Amendments. The 2015 amendment redesignated former (a)(1)(A)(ii) as part of (a)(1)(A)(i); substituted "or" for "Alternatively" following "term in office" in (a)(1)(A)(i); added (a)(1)(A)(ii) and (iii); redesignated (e) as (e)(1); in (e)(1), inserted "at the first regular meeting" and inserted "whether by Robert's Rules of Order or otherwise"; and added (e)(2).

The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 14 and 15 inserted "or December" in (b)(1)(A)(i).

The 2019 amendment by No. 564 added the (b)(1)(A)(ii)*(a)* designation; and added (b)(1)(A)(ii)*(b)*.

The 2019 amendment by No. 910 substituted "Division" for "Department" in (b)(1)(B); and substituted "Division of Elementary and Secondary Education" for "Department of Education" in (b)(5).

Effective Dates. Acts 2019, No. 564, § 3: Jan. 1, 2020.

14-14-910. Interlocal agreements.

CASE NOTES

Analysis

Construction.
Applicability.
Illegal Exaction.

Construction.

Plain language of this section contemplates that counties may contract for any administrative service as long as either the county or the public agency is legally authorized to perform it; the plain language of this section contemplates that counties may delegate administrative powers to other public agencies under the provisions of this section. Sullins v. Central Arkansas Water, 2015 Ark. 29, 454 S.W.3d 727 (2015).

Applicability.

This section was applicable because a watershed protection agreement between a county and Central Arkansas Water required the county to expend money from its general tax revenues in executing the agreement and thus implicated the financial resources of the county; additionally, the actual enforcement of the agreement would, at times, involve existing members of the county staff beyond those for which Central Arkansas Water was reimbursing the county. Sullins v. Central Arkansas Water, 2015 Ark. 29, 454 S.W.3d 727 (2015).

Illegal Exaction.

Circuit court correctly ruled that a watershed protection agreement was valid under the Interlocal Agreement Act, § 14-14-910, because it was for administrative activities that either the county or Central Arkansas Water was legally authorized to perform and the county's financial resources were obligated in the agreement; because the contract between the county and Central Arkansas Water was authorized by the Act, the expenditure of funds under the contract was not an illegal exaction. Sullins v. Central Arkansas Water, 2015 Ark. 29, 454 S.W.3d 727 (2015).

14-14-915. Initiative and referendum requirements.

CASE NOTES

Analysis

Constitutionality.
Construction.
Signatures.
Time Requirements.

Constitutionality.

Subsection (d) does not conflict with U.S. Const. amend. 7 because under the statute, the person attacking the petition must first meet the burden of proving the petition contains evidence of forgery or that there is evidence a person has signed a name other than his or her own, and this is consistent with the constitution, which places the burden of proof on the challenger; because the burden is on the contestant in the first instance, the statute does not conflict with the constitution. Our Cmty., Our Dollars v. Bullock, 2014 Ark. 457, 452 S.W.3d 552 (2014).

Construction.

Subsection (e) does not purport to preclude a circuit court from considering in its review the entirety of the petition, which includes all of the signatures submitted to a county clerk with the petition, but merely sets a deadline of five days for the county clerk to complete the task of determining whether thirty-eight percent of the registered voters signed the petition, after the sponsors have been given ten days to cure the previous deficiencies. Our Cmty., Our Dollars v. Bullock, 2014 Ark. 457, 452 S.W.3d 552 (2014).

Signatures.

Subsection (e) does envision the collection of signatures following the clerk's notification that the petition, as originally submitted, is insufficient; however, there is nothing in the statute that expressly prohibits a sponsor from collecting signatures after the petition has been filed with

the county clerk. Our Cmty., Our Dollars v. Bullock, 2014 Ark. 457, 452 S.W.3d 552 (2014).

Circuit court clearly erred by refusing to consider 720 signatures in its review of the county clerk's certification of a ballot-question committee's local-option petition; a circuit court is called upon to determine whether the petition is sufficient, meaning whether thirty-eight percent of the registered voters signed the petition, and, in that review, a circuit court has to consider the entire petition, which includes all of the signatures submitted to a county clerk with the petition. Our Cmty., Our Dollars v. Bullock, 2014 Ark. 457, 452 S.W.3d 552 (2014).

Although the statute couches the deadline in jurisdictional terms, it does not follow that a circuit court is prohibited from considering uncounted signatures when determining the correctness of a clerk's certification that thirty-eight percent of registered voters signed the petition; although a county clerk is required to meet the deadline, the clerk's loss of jurisdiction after five days does not limit the evidence that can be received in circuit court upon de novo review of certification. Our Cmty., Our Dollars v. Bullock, 2014 Ark. 457, 452 S.W.3d 552 (2014).

Subsection (d) does not conflict with U.S. Const. amend. 7 because under the statute, the person attacking the petition must first meet the burden of proving the petition contains evidence of forgery or that there is evidence a person has signed a name other than his or her own, and this is consistent with the constitution, which places the burden of proof on the challenger; because the burden is on the contestant in the first instance, the statute does not conflict with the constitution. Our Cmty., Our Dollars v. Bullock, 2014 Ark. 457, 452 S.W.3d 552 (2014).

Because a ballot-question committee presented no evidence verifying excluded signatures, the circuit court correctly excluded all of the signatures found on petitions where any one signature was found to be invalid; nothing in the language of the statute limits its application to the county clerk's verification process. Our Cmty., Our Dollars v. Bullock, 2014 Ark. 457, 452 S.W.3d 552 (2014).

Time Requirements.

Supreme Court of Arkansas had appellate jurisdiction over an appeal of a circuit court order affirming the county clerk's determination that a local-option petition was insufficient to place on the ballot; the 10-day appeal period of § 3-8-205(b) only applied when the county clerk had certified a petition and indicated that it would be placed on the ballot, and appellants had timely appealed under this section. Keep Our Dollars in Independence Cnty. v. Mitchell, 2017 Ark. 154, 518 S.W.3d 64 (2017).

14-14-917. Initiative and referendum elections.

(a) Time of Election for Initiative and Referendum Measures.

(1) Initiative. Initiative petition measures shall be considered by the electors only at a regular general election at which state and county officers are elected for regular terms.

(2) Referendum. Referendum petition measures may be submitted to the electors during a regular general election and shall be submitted if the adequacy of the petition is determined within the time limitation prescribed in this section. A referendum measure may also be referred to the electors at a special election called for the expressed purpose proposed by petition. However, no referendum petition certified within the time limitations established for initiative measures shall be referred to a special election, but shall be voted upon at the next regular election. No referendum election shall be held less than sixty (60) days after the certification of adequacy of the petition by the county clerk.

(3) Calling Special Elections. The jurisdiction to establish the necessity for a special election on referendum measures is vested in the electors through the provisions of petition. Where the jurisdiction is not

exercised by the electors, the county court of each of the several counties may determine the necessity. However, a quorum court may compel the calling of a special election by a county court through resolution adopted during a regularly scheduled meeting of the quorum court. The resolution may specify a reasonable time limitation in which a county court order calling the special election shall be entered.

(4) Time of Special Election. The county court shall fix the date for the conduct of any special elections on referendum measures. The date shall be not less than established under § 7-11-201 et seq. When the electors exercise their powers to establish the necessity for a special election, the county court shall order an election according to the dates stated in § 7-11-201 et seq.

(b) Certification Requirements.

(1) Numeric Designation of Initiative and Referendum Measures. Upon finding an initiative or referendum petition sufficient and prior to delivery of the certification to a board of election commissioners and quorum court, the county clerk shall cause the measure to be entered into the legislative agenda register of the quorum court. This entry shall be in the order of the original filing of petition, and the register entry number shall be the official numeric designation of the proposed measure for election ballot purposes.

(2) Certification of Sufficiency. The certification of sufficiency for initiative and referendum petitions transmitted by the county clerk to the county board of election commissioners and quorum court shall include the ballot title of the proposed measure, the legislative agenda registration number, and a copy of the proposed measure, omitting signatures. The ballot title certified to the board shall be the comprehensive title of the measure proposed by petition, and the delivery of the certification to the chair or secretary of the board shall be deemed sufficient notice to the members of the board and their successors.

(c) Notice of Election.

(1) Initiative Petitions. Upon certification of any initiative or referendum petition measure submitted during the time limitations for a regular election, the county clerk shall give notice through publication by a two-time insertion, at not less than a seven-day interval, in a newspaper of general circulation in the county or as provided by law. Publication notice shall state that the measure will be submitted to the electors for adoption or rejection at the next regular election and shall include the full text, the ballot title, and the official numeric designation of the measure.

(2) Referendum Petition. Upon certifying any referendum petition prior to the time limitations of filing measures established for a regular election, the county clerk shall give notice through publication by a one-time insertion in a newspaper of general circulation in the county or as provided by law. Publication notice shall state that the measure will be submitted to the electors for adoption or rejection at the next regular election or a special election when ordered by the county court and shall include the full text, the ballot title, and the official numeric designation of the measure.

(3) Publication of Special Referendum Election Notice. Upon filing of a special election order by the county court, the county clerk shall give notice of the election through publication by a two-time insertion, at not less than a seven-day interval, in a newspaper of general circulation in the county or as provided by law. Publication shall state that the measure will be submitted to the electors for adoption or rejection at a special election and shall include the full text, the date of the election, the ballot title, and official numeric designation of the measure.

(4) Costs. The cost of all publication notices required in this section shall be paid out of the county general fund.

(d) Ballot Specifications for Initiative and Referendum Measures.

(1)(A) Upon receipt of any initiative or referendum measure certified as sufficient by a county clerk, it shall be the duty of the members of the county board of election commissioners to take due cognizance and to certify the results of the vote cast thereon.

(B)(i) Except as provided in subdivision (d)(1)(B)(ii) of this section, the board shall cause the ballot title to be placed on the ballot to be used in the election, stating plainly and separately the title of the ordinance or measure so initiated or referred by the quorum court to the electors with these words:

"FOR PROPOSED INITIATIVE (OR REFERRED) ORDINANCE (OR AMENDMENT OR MEASURE)

NO. _____

AGAINST PROPOSED INITIATIVE (OR REFERRED) ORDINANCE (OR AMENDMENT OR MEASURE)

NO. _____".

(ii) If the election concerns repeal of an ordinance or measure by referendum petition, the ballot shall state plainly the title of the initiated ordinance or referred measure with these words:

"FOR REPEAL OF THE INITIATIVE (OR REFERRED) ORDINANCE (OR AMENDMENT OR MEASURE)

NO. _____

AGAINST REPEAL OF THE INITIATIVE (OR REFERRED) ORDINANCE (OR AMENDMENT OR MEASURE)

NO. _____".

(2) In arranging the ballot title on the ballot, the commissioners shall place it separate and apart from the ballot titles of the state acts, constitutional amendments, and the like. If the board of election commissioners fails or refuses to submit a proposed initiative or referendum ordinance when it is properly petitioned and certified as sufficient, the qualified electors of the county may vote for or against the ordinance or measure by writing or stamping on their ballots the proposed ballot title, followed by the word "FOR" or "AGAINST", and a majority of the votes so cast shall be sufficient to adopt or reject the proposed ordinance.

(e) Conflicting Measures. Where two (2) or more ordinances or measures shall be submitted by separate petition at any one (1) election, covering the same subject matter and being for the same

general purpose, but different in terms, words, and figures, the ordinance or measure receiving the greatest number of affirmative votes shall be declared the law, and all others shall be declared rejected.

(f) Contest of Election. The right to contest the returns and certification of the vote cast upon any proposed initiative or referendum measure is expressly conferred upon any ten (10) qualified electors of the county. The contest shall be brought in the circuit court and shall be conducted under the procedure for contesting the election of county officers, except that the complaint shall be filed within sixty (60) days after the certification of the vote, and no bond shall be required of the contestants.

(g) Vote Requirement for Enactment of Ordinance. Any measure submitted to the electors as provided in this section shall take effect and become law when approved by a majority of the votes cast upon the measure, and not otherwise, and shall not be required to receive a majority of the electors voting at the election. The measure so enacted shall be operative on and after the thirtieth day after the election at which it is approved, unless otherwise specified in the ordinance or amendment.

History. Acts 1977, No. 742, § 94; A.S.A. 1947, § 17-4011; Acts 2003, No. 1441, § 2; 2007, No. 1049, § 35; 2009, No. 1480, § 51; 2015, No. 1036, § 1.

Amendments. The 2015 amendment redesignated (d) as (d)(1) and (2); deleted "So that electors may vote upon the ordinance or measure" from the end of (d)(1)(A); in (d)(1)(B)(i), in the introductory language, added "Except as provided in subdivision (d)(1)(B)(ii) of this section" to the beginning and inserted "by the quorum court," and added "OR MEASURE" twice throughout; and added (d)(1)(B)(ii).

Subchapter 10 — Judicial Powers

SECTION.
14-14-1003. Appeals.

14-14-1001. County court generally.

CASE NOTES

Unauthorized Practice of Law.

Circuit court did not err in dismissing a company's tax assessment appeal for lack of jurisdiction when its tax manager, a nonlawyer, initiated the appeal on its behalf because the company invoked the legal process and its nonattorney representative engaged in the unauthorized practice of law; the company, through a nonlawyer, lodged its appeal in the county court, initiating the appeal process in a court of record. Desoto Gathering Co., LLC v. Hill, 2017 Ark. 326, 531 S.W.3d 396 (2017).

14-14-1003. Appeals.

Appeals from all judgments of the county courts may be taken to the circuit court, under such restrictions and regulations as may be prescribed by law.

History. Acts 1977, No. 742, § 83; A.S.A. 1947, § 17-3906; Acts 2017, No. 260, § 1.

Amendments. The 2017 amendment deleted "or courts of common pleas, when established," following "county courts".

Subchapter 12 — Personnel Procedures

SECTION.
14-14-1202. Ethics for county government officers and employees.
14-14-1203. Compensation and expense reimbursements generally.
14-14-1204. Compensation of elected county officers.
14-14-1205. Compensation of township officers.
14-14-1207. Reimbursement of allowable expenses.
14-14-1208. Professional memberships and meetings.
14-14-1210. Cost-of-living adjustment.
14-14-1212. Coroner medicolegal death investigation training — Authorization for salary adjustment for certified county coroner — Definition.

14-14-1202. Ethics for county government officers and employees.

(a) Public Trust.

(1) The holding of public office or employment is a public trust created by the confidence which the electorate reposes in the integrity of officers and employees of county government.

(2) An officer or employee shall carry out all duties assigned by law for the benefit of the people of the county.

(3) The officer or employee may not use his or her office, the influence created by his or her official position, or information gained by virtue of his or her position to advance his or her individual personal economic interest or that of an immediate member of his or her family or an associate, other than advancing strictly incidental benefits as may accrue to any of them from the enactment or administration of law affecting the public generally.

(b) Officers and Employees of County Government Defined.

(1) For purposes of this section, officers and employees of county government include:

(A) All elected county and township officers and their employees;

(B) All district judicial officers serving a county and their employees; and

(C) All members of county boards and advisory, administrative, or subordinate service districts and their employees.

(2) Officials who are considered to be state officers or deputy prosecuting attorneys are not covered by this subsection.

(c) Rules of Conduct.

(1) No officer or employee of county government shall:

(A)(i) Be interested, either directly or indirectly, in any contract or transaction made, authorized, or entered into on behalf of the county or an entity created by the county, or accept or receive any property, money, or other valuable thing for his or her use or benefit on account

of, connected with, or growing out of any contract or transaction of a county.

(ii)*(a)* If in the purchase of any materials, supplies, equipment, or machinery for the county, any discounts, credits, or allowances are given or allowed, they shall be for the benefit of the county.

(b) It shall be unlawful for any officer or employee to accept or retain them for his or her own use or benefit;

(B) Be a purchaser at any sale or a vendor of any purchase made by him or her in his or her official capacity;

(C) Acquire an interest in any business or undertaking which he or she has reason to believe may be directly affected to its economic benefit by official action to be taken by county government;

(D)(i) Perform an official act directly affecting a business or other undertaking to its economic detriment when he or she has a substantial financial interest in a competing firm or undertaking.

(ii) Substantial financial interest is defined for purposes of this section as provided in Acts 1971, No. 313, § 7 [repealed].

(2)(A)(i) If the quorum court determines it is in the best interest of the county, the quorum court by ordinance upon a two-thirds (⅔) vote may permit the county to purchase goods, services, commodities, or real property directly or indirectly from a quorum court member, a county officer, or a county employee due to unusual circumstances.

(ii) The ordinance permitting the purchase shall define specifically the unusual circumstances under which the purchase is permitted and the limitations of the authority.

(B) A quorum court member having an interest in the goods, services, commodities, or real property being considered under the procedures in this subdivision (c)(2) shall not vote upon the approval of the ordinance permitting the purchase of the goods, services, commodities, or real property.

(C) If goods, services, commodities, or real property are purchased under the procedures in this subdivision (c)(2), the county judge shall file an affidavit, together with a copy of the voucher and other documents supporting the disbursement, with the county clerk certifying that each disbursement has been made in accordance with the ordinance.

(3)(A) No person shall simultaneously hold office and serve as an elected county justice of the peace and hold office and serve as an elected city council member.

(B) This subdivision (c)(3) shall not cut short the term of any office holder serving as such on September 1, 2005, but shall be implemented during the next election cycle of each office.

(d) Removal from Office or Employment.

(1) Court of Jurisdiction. Any citizen of a county or the prosecuting attorney of a county may bring an action in the circuit court in which the county government is located to remove from office any officer or employee who has violated the rules of conduct set forth in this section.

(2) Suspension Prior to Final Judgment.

(A) Pending final judgment, an officer or employee who has been charged as provided in this section may be suspended from his or her office or position of employment without pay.

(B) Suspension of any officer or employee pending final judgment shall be upon order of the circuit court or judge thereof in vacation.

(3) Punishment.

(A) Judgment upon conviction for violation of the rules of conduct set forth in this section shall be deemed a misdemeanor.

(B) Punishment shall be by a fine of not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000), and the officer or employee shall be removed from office or employment of the county.

(4) Acquittal. Upon acquittal, an officer or employee shall be reinstated in his or her office or position of employment and shall receive all back pay.

(5) Legal Fees.

(A) Any officer or employee charged as provided in this section and subsequently acquitted shall be awarded reasonable legal fees incurred in his or her defense.

(B)(i) Reasonable legal fees shall be determined by the circuit court or the Supreme Court on appeal.

(ii) Such legal fees shall be ordered paid out of the general fund of the county treasury.

History. Acts 1977, No. 742, § 115; A.S.A. 1947, § 17-4208; Acts 1987, No. 930, § 1; 1989, No. 352, § 1; 1989, No. 681, § 1; 2005, No. 1924, § 1; 2017, No. 193, § 1; 2019, No. 383, § 3.

Amendments. The 2017 amendment rewrote (c)(2).

The 2019 amendment deleted "shall" following "government" in the introductory language of (b)(1); redesignated (b)(1)(A)(i), (b)(1)(A)(ii), and (b)(1)(A)(iii) as (b)(1)(A), (b)(1)(B), and (b)(1)(C); added "and their employees" in (b)(1)(A), (b)(1)(B), and (b)(1)(C); substituted "boards and advisory" for "boards, advisory" in (b)(1)(C); and deleted former (b)(1)(B).

14-14-1203. Compensation and expense reimbursements generally.

(a) Appropriation Required. All compensation, including salary, hourly compensation, expense allowances, training expenses, and other remunerations, allowed to any county officer, district officer, county officer-elect, district officer-elect, or employee is made only on specific appropriation by the quorum court of the county.

(b) Payments on Claims Approved by the County Judge. All compensation, including salary, hourly compensation, expense allowances, training expenses, and other remuneration, allowed to any county officer, district officer, county officer-elect, district officer-elect, or employee is made only upon claim or voucher presented to the county judge and approved by him or her in the manner prescribed by law for disbursement of county funds.

(c) Expense Reimbursement.

(1) Except as provided under subdivision (c)(2) of this section, all expense allowances, training expenses, and remunerations other than

salary provided in this subchapter shall be made only upon voucher or claim itemizing the allowances or expenses, prepared in the manner prescribed by law, and presented to and approved by the county judge in the manner prescribed by law for the disbursement of county funds.

(2) County officials may make cash advances for travel-related expenses to employees, subject to rules adopted by the Legislative Joint Auditing Committee.

(d) DECREASES IN SALARY. Any decrease in the annual salary or compensation of a county officer shall not become effective until January 1 following a general election held after the decrease has been fixed by the quorum court of the county.

(e) ENTERPRISE ACCOUNTS PROHIBITED. An elected county or district officer or employee of the county or district shall not individually maintain or operate an account for financing self-supporting activities that render services on a user charge basis to the general public.

History. Acts 1977, No. 742, § 112; 1983, No. 233, § 1; A.S.A. 1947, § 17-4205; Acts 2011, No. 614, § 1; 2015, No. 279, § 1.

Amendments. The 2015 amendment, in (a) and (b), substituted "county officer, district officer, county officer-elect, district officer-elect, or employee is" for "county or district officer or employee thereof shall be."

14-14-1204. Compensation of elected county officers.

(a)(1) The quorum court of each county shall fix by ordinance the annual salaries of the following county officers within the minimums and maximums provided in this section:

(A) The county judge;

(B) The sheriff and ex officio collector of taxes;

(C) The collector of taxes, where established by law;

(D) The circuit clerk;

(E) The county clerk, where established by law;

(F) The assessor;

(G) The treasurer;

(H) The coroner; and

(I) The surveyor.

(2) The minimum and maximum salaries under this section do not include any county-provided insurance benefits or other county benefits required by federal or state law, rule, or regulation.

(b) For purposes of determining the salaries of the elected county officers, unless otherwise specifically provided in this section, the counties shall be classified on the basis of population, as determined by the preceding federal decennial census, according to the following classifications:

Classification	Population
Class 1	0 to 9,999
Class 2	10,000 to 19,999

Classification	Population
Class 3	20,000 to 29,999
Class 4	30,000 to 49,999
Class 5	50,000 to 69,999
Class 6	70,000 to 199,999
Class 7	200,000 and above

(c)(1) The annual salary of a county judge shall be in compensation for his or her services as the executive and administrator for the county, as judge of the county court, as presiding officer of the quorum court, and for all other services performed as provided by the Arkansas Constitution, by law, or by county ordinance.

(2) The minimum and maximum salaries per annum of the county judge of a county shall be as follows:

Classification	Salary per Annum
Class 1	not less than $30,000 nor more than $74,640
Class 2	not less than $31,000 nor more than $76,095
Class 3	not less than $32,000 nor more than $77,550
Class 4	not less than $33,000 nor more than $79,005
Class 5	not less than $34,000 nor more than $80,459
Class 6	not less than $35,000 nor more than $86,278
Class 7	not less than $36,000 nor more than $99,223

(d)(1)(A) The annual salary of a sheriff shall be compensation for services as a law enforcement officer, as the supervisor of the county jail, as custodian of persons accused or convicted of crimes, as an officer of the circuit court or county court, as the ex officio county tax collector and delinquent tax collector in those counties where that office is combined with the office of sheriff, and for all other services performed as provided by the Arkansas Constitution, by law, or by county ordinance.

(B) In any county in which the offices of sheriff and collector are combined into a single office, the maximum and minimum salaries for that office in the appropriate county classification shall be increased by the following amounts:

Classification	Additional Salary
Class 1	$1,500
Class 2	$1,500
Class 3	$2,500

Classification	Additional Salary
Class 4	$2,500
Class 5	$3,000
Class 6	$3,000
Class 7	$4,000

(2) The minimum and maximum salaries per annum of the sheriff of a county shall be as follows:

Classification	Salary per Annum
Class 1	not less than $30,000 nor more than $74,640
Class 2	not less than $31,000 nor more than $76,095
Class 3	not less than $32,000 nor more than $77,550
Class 4	not less than $33,000 nor more than $79,005
Class 5	not less than $34,000 nor more than $80,459
Class 6	not less than $35,000 nor more than $86,278
Class 7	not less than $36,000 nor more than $99,223

(e)(1) In those counties where the office of county tax collector has been separated from the office of sheriff, the annual salary of a county tax collector shall be in compensation for services as tax collector and delinquent tax collector and for all other services performed as provided by the Arkansas Constitution, by law, or by county ordinance.

(2) The minimum and maximum salaries per annum of the county tax collector in those counties where the office has been separated from the office of sheriff shall be as follows:

Classification	Salary per Annum
Class 1	not less than $27,000 nor more than $70,276
Class 2	not less than $28,000 nor more than $71,731
Class 3	not less than $29,000 nor more than $73,186
Class 4	not less than $30,000 nor more than $74,640
Class 5	not less than $31,000 nor more than $76,095
Class 6	not less than $32,000 nor more than $80,459

Classification	Salary per Annum
Class 7	not less than $33,000 nor more than $93,404

(f)(1)(A) The annual salary of a county and probate clerk shall be in compensation for his or her services as county clerk, probate clerk, clerk of the county court, clerk of the quorum court, registrar of voters, and for all other services performed as provided by the Arkansas Constitution, by law, or by county ordinance.

(B) In those counties where the office of county and probate clerk is combined with the office of circuit clerk and ex officio recorder, the salary shall be as provided in this section.

(C) In those counties where the office of county and probate clerk is combined with the office of circuit clerk and ex officio recorder, the minimum and maximum salaries for that office in the appropriate county classification shall be increased by the following amounts:

Classification	Additional Salary
Class 1	$1,500
Class 2	$1,500
Class 3	$2,500
Class 4	$2,500
Class 5	$3,000
Class 6	$3,000
Class 7	$4,000

(2) The minimum and maximum salaries per annum of the county and probate clerk of a county shall be as follows:

Classification	Salary per Annum
Class 1	not less than $27,000 nor more than $70,276
Class 2	not less than $28,000 nor more than $71,731
Class 3	not less than $29,000 nor more than $73,186
Class 4	not less than $30,000 nor more than $74,640
Class 5	not less than $31,000 nor more than $76,095
Class 6	not less than $32,000 nor more than $80,459
Class 7	not less than $33,000 nor more than $93,404

(g)(1)(A) The annual salary of a circuit clerk and ex officio recorder shall be in compensation for his or her services as clerk of the circuit

court, as ex officio recorder, and for all other services performed as provided by the Arkansas Constitution, by law, or by county ordinance.

(B) In those counties where the office of circuit clerk and ex officio recorder is combined with the office of county and probate clerk, the minimum and maximum salaries for that office in the appropriate county classification shall be increased by the following amounts:

Classification	Additional Salary
Class 1	$1,500
Class 2	$1,500
Class 3	$2,500
Class 4	$2,500
Class 5	$3,000
Class 6	$3,000
Class 7	$4,000

(2) The minimum and maximum salaries per annum of the circuit clerk and ex officio recorder of a county shall be as follows:

Classification	Salary per Annum
Class 1	not less than $27,000 nor more than $70,276
Class 2	not less than $28,000 nor more than $71,731
Class 3	not less than $29,000 nor more than $73,186
Class 4	not less than $30,000 nor more than $74,640
Class 5	not less than $31,000 nor more than $76,095
Class 6	not less than $32,000 nor more than $80,459
Class 7	not less than $33,000 nor more than $93,404

(h)(1)(A) The annual salary of a county assessor shall be in compensation for all services performed as county assessor, appraiser, and as provided by the Arkansas Constitution, by law, or by county ordinance.

(B) In any county in which the offices of assessor and collector are combined into a single office, the maximum and minimum salaries of the county assessor and collector in the appropriate county classification shall be increased by the following amounts:

Classification	Additional Salary
Class 1	$1,500
Class 2	$1,500
Class 3	$2,500

Classification	Additional Salary
Class 4	$2,500
Class 5	$3,000
Class 6	$3,000
Class 7	$4,000

(2) The minimum and maximum salaries per annum of the county assessor of a county shall be as follows:

Classification	Salary per Annum
Class 1	not less than $27,000 nor more than $70,276
Class 2	not less than $28,000 nor more than $71,731
Class 3	not less than $29,000 nor more than $73,186
Class 4	not less than $30,000 nor more than $74,640
Class 5	not less than $31,000 nor more than $76,095
Class 6	not less than $32,000 nor more than $80,459
Class 7	not less than $33,000 nor more than $93,404

(i)(1)(A) The annual salary of a county treasurer shall be in compensation for all services performed as provided by the Arkansas Constitution, by law, or by county ordinance.

(B) In any county in which the offices of treasurer and collector are combined into a single office, the maximum and minimum salaries of the county treasurer and collector in the appropriate county classification shall be increased by the following amounts:

Classification	Additional Salary
Class 1	$1,500
Class 2	$1,500
Class 3	$2,500
Class 4	$2,500
Class 5	$3,000
Class 6	$3,000
Class 7	$4,000

(2) The minimum and maximum salaries per annum for the county treasurer of a county shall be as follows:

Classification	Salary per Annum
Class 1	not less than $27,000 nor more than $70,276

Classification	Salary per Annum
Class 2	not less than $28,000 nor more than $71,731
Class 3	not less than $29,000 nor more than $73,186
Class 4	not less than $30,000 nor more than $74,640
Class 5	not less than $31,000 nor more than $76,095
Class 6	not less than $32,000 nor more than $80,459
Class 7	not less than $33,000 nor more than $93,404

(j)(1) The compensation of a county coroner shall be for all services performed as provided by the Arkansas Constitution, by law, or by county ordinance.

(2) The minimum and maximum salaries per annum of the county coroner of a county shall be as follows:

Classification	Salary per Annum
Class 1	not less than $3,802 nor more than $12,990
Class 2	not less than $4,302 nor more than $13,990
Class 3	not less than $4,803 nor more than $16,990
Class 4	not less than $5,303 nor more than $30,990
Class 5	not less than $5,800 nor more than $40,900
Class 6	not less than $6,300 nor more than $48,990
Class 7	not less than $33,000 nor more than $93,404

(k) Compensation of the county surveyor shall be fixed by the quorum court.

History. Acts 1977, No. 742, § 108; 1979, No. 151, § 1; 1981, No. 806, § 1; 1983, No. 446, § 1; 1985, No. 398, § 1; A.S.A. 1947, § 17-4201; Acts 1989, No. 694, § 1; 1991, No. 1161, § 1; 1993, No. 954, § 1; 1995, No. 661, § 1; 1997, No. 759, § 1; 1999, No. 1424, § 1; 2001, No. 1170, § 1; 2003, No. 109, § 1; 2005, No. 1214, § 1; 2007, No. 526, § 1; 2009, No. 320, § 1; 2017, No. 260, § 2; 2019, No. 400, § 1.

Amendments. The 2017 amendment deleted "as judge of the court of common pleas, where established" following "county court" in (c)(1).

The 2019 amendment redesignated (a) as (a)(1) and redesignated the remaining subdivisions in (a) accordingly; and added (a)(2).

14-14-1205. Compensation of township officers.

(a)(1)(A) The per diem compensation for justices of the peace attending any official, regular, special, or committee meeting of a quorum court shall be fixed by ordinance in each county.

(B) The per diem compensation of justices shall not be less than one hundred twenty-five dollars ($125) per diem for each regular meeting nor exceed:

(i) Eight thousand seven hundred thirty-four dollars ($8,734) per calendar year in counties having a population of less than seventy thousand (70,000);

(ii) Ten thousand three hundred seventy-six dollars ($10,376) per calendar year in counties having a population of at least seventy thousand (70,000) and less than two hundred thousand (200,000); and

(iii) Thirteen thousand three hundred nineteen dollars ($13,319) per calendar year in counties having a population of two hundred thousand (200,000) or more.

(2) Per Diem Compensation Defined.

(A) Per diem compensation is defined as a per calendar day allowance, exclusive of allowable expenses, which shall be paid to a justice for attending meetings of the county quorum court. This compensation shall be based on attending meetings of a quorum court during any single calendar day without regard to the duration of the meetings.

(B) However, a member of the quorum court may receive per diem compensation for one (1) meeting per year for which the member is absent due to an emergency or for personal reasons.

(3) In addition to any other compensation expense reimbursement or expense allowances provided members of the quorum court, counties may provide medical insurance coverage or other insurance benefits for members of the quorum court.

(b) Justices of the Peace Serving in Judicial Capacity. The compensation of all justices of the peace serving in a judicial capacity shall be fixed by ordinance of the quorum court in each county. This basis of compensation shall not be computed on a percentage of the dollar amount of fines levied by a justice of the peace.

(c) Justice of the Peace as County Employee or Deputy. A justice of the peace shall not receive compensation as a county employee or deputy, nor shall any justice receive compensation or expenses from funds appropriated by the quorum court for any services performed within the county, other than as provided by this subchapter.

(d) Constables. The compensation of all constables serving in any official capacity established by law may be fixed by ordinance of the quorum court in each county.

History. Acts 1977, No. 742, § 109; 1979, No. 151, § 2; 1981, No. 806, § 2; 1983, No. 446, § 2; 1985, No. 398, § 2; A.S.A. 1947, § 17-4202; Acts 1989, No. 694, § 2; 1993, No. 954, § 2; 1995, No. 661, § 2; 1995, No. 1296, § 46; 1997, No. 363, § 1; 1997, No. 759, § 2; 1999, No. 749, § 1; 2001, No. 1170, § 2; 2003, No. 109, § 2; 2005, No. 1214, § 2; 2007, No. 526, § 2; 2009, No. 320, § 2; 2011, No. 561, § 2; 2019, No. 400, § 2.

Amendments. The 2019 amendment inserted "or other insurance benefits" in (a)(3).

CASE NOTES

Constitutionality of Ordinance.

County ordinance setting constable salaries at $25 per month did not violate equal protection because the evidence and testimony before the circuit court demonstrated that the quorum court had a rational basis for setting the $25-per-month salary for constables. Graves v. Greene County, 2013 Ark. 493, 430 S.W.3d 722 (2013).

14-14-1207. Reimbursement of allowable expenses.

(a) Reimbursement Authorized.

(1) All county and district officials and authorized deputies or employees are entitled to receive reimbursement of expenses incurred in the conduct of official and nondiscretionary duties under an appropriation for the operating expenses of an office, function, or service. Reimbursement of expenses incurred in the performance of discretionary functions and services may be permitted when authorized by a specific appropriation of the quorum court.

(2) Reimbursement of expenses for discretionary functions and services may include training expenses for a county official-elect and a district official-elect if authorized by the quorum court.

(b) Allowance for Meals, Lodging, and Other Allowable Expenses.

(1) All reimbursements for the purchase of meals, meal tips, lodging, and other allowable expenses are based on the actual expense incurred or on a per diem basis if authorized by the quorum court.

(2) Reimbursement for meal tips under subdivision (b)(1) of this section shall not exceed fifteen percent (15%) of the purchase amount of the meal.

(3) A per diem reimbursement under subdivision (b)(1) of this section shall be made under an accountable plan as defined by Internal Revenue Service regulations as in existence on January 1, 2009.

(c) Reimbursement of Travel Expense.

(1) Privately Owned Motor Vehicles.

(A)(i) Any elected county officer, district officer, county officer-elect, district officer-elect, or employee using a privately owned motor vehicle in the conduct of county affairs may be reimbursed at a per-mile rate established by ordinance.

(ii) Reimbursement is based only on official miles driven and legitimate automobile parking fees.

(iii) When more than one (1) traveler is transported in the same vehicle, only the owner is entitled to mileage reimbursement.

(B) A county shall not assume responsibility for any maintenance, operational costs, accidents, and fines incurred by the owner of the vehicle while on official business for the county.

(2) Privately Owned Airplanes. Reimbursement for travel expense using privately owned airplanes is based upon the most direct route in air miles and at the same rate as established for privately owned motor vehicles.

History. Acts 1977, No. 742, § 111; A.S.A. 1947, § 17-4204; Acts 1999, No. 109, § 1; 2009, No. 74, § 1; 2009, No. 732, § 1; 2011, No. 614, § 2; 2015, No. 279, § 2.

Amendments. The 2015 amendment redesignated (a) as (a)(1) and added (a)(2); in the second sentence of (a)(1), deleted "that are" preceding "incurred" and substituted "authorized" for "provided for"; substituted "authorized" for "approved" in (b)(1); substituted "county officer, district officer, county officer-elect, district officer-elect, or employee" for "county or district officer or employee thereof" in (c)(1)(A)(i); and made stylistic changes.

CASE NOTES

District Officials.

While the plain language of this section authorized reimbursement for district officials, a constable was not a district official, but a township officer under constitutional and statutory law, and thus, the statute did not authorize the reimbursement of expenses for constables, and the circuit court did not err in denying the constable's claim for expenses. Graves v. Greene County, 2013 Ark. 493, 430 S.W.3d 722 (2013).

14-14-1208. Professional memberships and meetings.

(a) The quorum court of each county may provide, through specific appropriations, for a county to join, pay membership fees and service charges, and cooperate with the organizations and associations of county government of this state and other states for the advancement of good government and the protection of local government interests.

(b) Elected county officers, district officers, township officers, county officers-elect, district officers-elect, and township officers-elect of a county government may be allowed per diem and either mileage or actual transportation expenses for attendance at meetings of the appropriate association of local government officials. Reasonable expenses or charges against each local government, as a member of the association, may be paid by a county.

(c) Employees of a county government may be allowed per diem and either mileage or actual transportation expenses for attendance at meetings of professional organizations or associations, and a county government may pay membership fees and service charges to the organizations.

History. Acts 1977, No. 742, § 114; A.S.A. 1947, § 17-4207; Acts 2015, No. 279, § 3.

Amendments. The 2015 amendment substituted "Elected county officers, district officers, township officers, county officers-elect, district officers-elect, and township officers-elect" for "Elected county and township officials" in (b).

14-14-1210. Cost-of-living adjustment.

(a) Beginning January 1, 2011, and on each January 1 thereafter, three percent (3%) per annum shall be added to the minimum and maximum salaries and per diems of elected county officers as a cost-of-living adjustment.

(b) Beginning January 1, 2016, and on each January 1 thereafter, three percent (3%) per annum shall be added to the maximum per diem compensation of justices of the peace as a cost-of-living adjustment.

(c) Beginning September 1, 2010, and on each September 1 thereafter, the Association of Arkansas Counties shall provide each county and Arkansas Legislative Audit with a schedule of the minimum and maximum salaries and per diems of elected county officers and justices of the peace with the added cost-of-living adjustment for the following year.

History. Acts 2009, No. 320, § 3; 2015, No. 942, § 1.

Amendments. The 2015 amendment inserted (b) and redesignated former (b) as (c); and inserted "and justices of the peace" in (c).

14-14-1212. Coroner medicolegal death investigation training — Authorization for salary adjustment for certified county coroner — Definition.

(a) As used in this section, "certified county coroner" means a county coroner who has obtained a certificate of satisfactory participation and completion of medicolegal death investigation training from the Arkansas Commission on Law Enforcement Standards and Training under § 14-15-308 or the American Board of Medicolegal Death Investigators.

(b) The quorum court of each county that has a certified county coroner is authorized to fix by ordinance the annual salary of a certified county coroner within the schedule of maximum salaries under § 14-14-1204.

(c) Beginning September 1, 2017, and on each September 1 thereafter, the compensation schedule prepared under § 14-14-1210(c) shall reflect a separate maximum annual salary for a certified county coroner with a salary adjustment made under subsection (b) of this section and § 14-14-1204(i).

History. Acts 2017, No. 194, § 1.

Subchapter 13 — Officers Generally

SECTION.
14-14-1301. County, quorum court district, and township officers.
14-14-1310. Filling vacancies in elective offices.
14-14-1314. Constable training requirements — Uniform requirements.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

14-14-1301. County, quorum court district, and township officers.

(a) COUNTY OFFICERS. There shall be elected, until otherwise determined by law, in each of the several counties of this state the following county officers:

(1) COUNTY JUDGE.

(A) The county judge shall:

(i) Perform the administrative and executive functions and duties, and such additional duties as may be provided by law, to be performed by the judge provided in Arkansas Constitution, Amendment 55, § 3;

(ii) Preside over the county quorum court without a vote but with the power of veto; and

(iii) Preside over the county court and exercise those judicial and ministerial duties of the county court that were not transferred to the judge to be performed in his or her capacity as the chief executive officer of the county by Arkansas Constitution, Amendment 55, or as may be provided by law.

(B) The judge shall be:

(i) At least twenty-five (25) years of age;

(ii) A citizen of the United States;

(iii) A person of upright character;

(iv) A person of good business education; and

(v) A resident of the county at the time of his or her election and during his or her continuance in office;

(2) CLERK OF THE CIRCUIT COURT. The clerk of the circuit court shall be clerk of all divisions of the court, ex officio clerk of the county court, and recorder, except as provided in subdivision (a)(3) of this section;

(3) COUNTY CLERK. A county clerk may be elected in like manner as a circuit clerk, and in such cases, the clerk may be ex officio clerk of the probate division of circuit court, if such division exists, in the county until otherwise provided by the General Assembly, and if created as a separate office, bear witness and sign all writs and other judicial process acted upon by the respective courts served by the clerk;

(4) ASSESSOR. The assessor shall perform such duties as are prescribed by law;

(5) Sheriff.

(A) The sheriff, who shall be ex officio collector of taxes, unless otherwise provided by law, shall perform such duties as are prescribed by law. It shall be the general duty of each sheriff to quell and suppress all assaults and batteries, affrays, insurrections, and unlawful assemblies.

(B) The sheriff shall:

(i) Apprehend and commit to jail all felons and other offenders;

(ii) Execute all process directed to him or her by legal authority;

(iii) Attend upon all courts held in his or her county until otherwise provided by law; and

(iv) Perform all other acts and things that are required by law;

(6) Collector of Taxes. A separate collector of taxes may be elected as provided by law. Each collector, upon receiving the tax charge of the county, shall proceed to collect them as may be prescribed by law;

(7) Treasurer. The treasurer, who shall be ex officio treasurer of the common school fund of the county, shall perform such duties as are prescribed by law. However, nothing in this chapter shall be deemed to replace or modify any law of this state authorizing school boards to appoint a treasurer for school districts as provided by law;

(8) County Surveyor. The county surveyor shall perform such duties as are prescribed by law. It shall be the general duty of the surveyor to execute all orders directed by any court of record for surveying or resurveying any tract of land, the title of which is in dispute or in litigation before the court, and to obey all orders of surveys for the partition of real estate, and to provide services to the county court when required for the purpose of surveying and measuring any proposed road; and

(9) Coroner. The county coroner shall perform such duties as are prescribed by law.

(b) Quorum Court District and Township Officers.

(1)(A) There shall be elected in each of the quorum court districts of the counties of this state one (1) justice of the peace who shall perform such judicial duties as may be prescribed by law and who shall serve as a member of the quorum court of the county in which elected and shall perform such legislative duties as may be prescribed by law.

(B) Each justice shall be a qualified elector and a resident of the district for which he or she is elected.

(2) There shall be elected in each township, as preserved and continued in § 14-14-401, one (1) constable who shall have the qualifications and perform such duties as may be provided by law.

History. Acts 1977, No. 742, § 41; 1979, No. 413, §§ 6-8; A.S.A. 1947, § 17-3601; Acts 2003, No. 1185, § 23; 2017, No. 260, § 3.

Amendments. The 2017 amendment redesignated (b)(1) as (b)(1)(A) and (B); and deleted "preside over the justice of the peace courts and" preceding "perform such judicial duties" in (b)(1)(A).

CASE NOTES

Constable.

While the plain language of § 14-14-1207 authorized reimbursement for district officials, a constable was not a district official, but a township officer under constitutional and statutory law, and thus, the statute did not authorize the reimbursement of expenses for constables, and the circuit court did not err in denying the constable's claim for expenses. Graves v. Greene County, 2013 Ark. 493, 430 S.W.3d 722 (2013).

14-14-1310. Filling vacancies in elective offices.

(a)(1) County Elective Offices. Vacancies in all county elective offices shall be filled by the county quorum court through the process of resolution as prescribed by law.

(2) Eligibility Requirements and Term of Office.

(A) Qualifications. All officers appointed to fill a vacant county elective office shall meet all of the requirements for election to that office.

(B) Requirements. All officers appointed by a quorum court shall subscribe to the oath of office, be commissioned, and be bonded as prescribed by law.

(C)(i) Persons Ineligible for Appointment. Any member of the quorum court shall be ineligible for appointment to fill any vacancy occurring in any county office, and resignation shall not remove the ineligibility. Husbands and wives of justices of the peace and relatives of the justices or their husbands and wives within the fourth degree of consanguinity or affinity shall likewise be ineligible.

(ii) Any county elected officer who resigns during a term of office shall be ineligible for appointment to any county elective office during the term for which he or she resigned.

(D) Term of Office. All officers so appointed shall serve until their successor is elected and qualified.

(E) Successive Terms of Appointed Officer Prohibited. A person appointed to fulfill a vacant or unexpired term of an elective county office shall not be eligible for appointment or election to succeed himself or herself.

(b) Elective Township Offices. All vacancies in elective township offices, including justice of the peace offices, shall be filled by the Governor.

(c) Emergency Vacancies.

(1)(A) During a declaration of an emergency or circumstances that warrant a declaration of an emergency under § 12-75-107 or § 12-75-108, a vacancy in the office of county judge due to death or disability to the degree of inability to perform the duties of office shall be temporarily filled by executive order of the county judge issued prior to the incapacity of the county judge, designating three (3) persons in succession to fill the vacancy of the office of county judge on an interim basis until such time as the vacancy is filled by the quorum court as provided by this chapter or the disability of the county judge is abated.

(B) Persons so designated shall be listed in succession and may be identified by title or position.

(C) The death or disability of a person in the line of succession shall result in disqualification of the person and appointment of the next successive person.

(2)(A) During a declaration of an emergency or circumstances that warrant a declaration of emergency under § 12-75-107 or § 12-75-108, a vacancy in the office of sheriff due to death or disability to the degree of inability to perform the duties of office shall be temporarily filled by a policy statement of the sheriff issued prior to the incapacity of the sheriff and adopted by resolution of the quorum court, designating three (3) persons in succession to fill the vacancy in the office of sheriff on an interim basis until such time as the vacancy is filled by the quorum court as provided by this chapter or the disability of the sheriff is abated.

(B) Persons so designated by the sheriff shall be listed in succession and may be identified by title or position.

(C) The death or disability of a person in the line of succession shall result in disqualification of the person and appointment of the next successive person.

(D) The sheriff shall affix his or her signature to the policy statement and to the resolution of the quorum court to signify that the line of succession for the office of sheriff is in accordance with his or her authority.

(3)(A) The county judge and the sheriff shall file the executive order and the resolution with policy statement under subdivisions (c)(1) and (2) of this section with the county clerk, and a file-marked copy shall be provided to the Director of the Division of Emergency Management no later than sixty (60) days from the beginning of the elected term of office.

(B) Members of the quorum court are not eligible to fill the vacancy in the office of county judge or sheriff under this section.

History. Acts 1977, No. 742, §§ 51, 52; 1979, No. 413, § 10; 1985, No. 682, §§ 1-3; A.S.A. 1947, §§ 17-3611, 17-3612; Acts 2009, No. 229, § 1; 2013, No. 378, § 1; 2019, No. 910, § 5920.

Amendments. The 2019 amendment substituted "Director of the Division of Emergency Management" for "Arkansas Department of Emergency Management" in (c)(3)(A).

14-14-1314. Constable training requirements — Uniform requirements.

(a)(1)(A) For a constable to have access to information from the Arkansas Crime Information Center:

(i) He or she shall satisfactorily complete the constable certification course provided by the Arkansas Commission on Law Enforcement Standards and Training; and

(ii) Each year after completing the certification course required under subdivision (a)(1)(A)(i) of this section, he or she shall satisfac-

torily complete sixteen (16) hours of training certified by the Arkansas Commission on Law Enforcement Standards and Training.

(B) For a constable to carry a firearm:

(i) He or she shall attend sixteen (16) hours of firearms training; and

(ii) Each year after completing the training required under subdivision (a)(1)(B)(i) of this section, he or she shall satisfy the firearm qualification standards for a law enforcement official.

(2) A constable holding office on July 31, 2007, is exempt from the requirements of subdivision (a)(1) of this section if the constable has completed:

(A) The Part-time Law Enforcement Officer training or higher level training course; and

(B) Mandatory racial profiling courses.

(b)(1) In the performance of his or her official duties, a constable shall wear a uniform consisting of:

(A) A white shirt on formal occasions at any time;

(B)(i) A constable identification patch on the left shoulder of the shirt and an American flag on the right shoulder.

(ii) The top of each patch shall be one inch (1″) down from the shoulder seam of the shirt;

(C) A name tag above the right pocket flap of the shirt;

(D) A six-point star containing the words "Arkansas Constable" on the left side of the shirt; and

(E) The following pants:

(i) Tan pants; or

(ii) Blue or black pants on formal occasions.

(2) If a constable is engaged in search or rescue activities, he or she shall wear a uniform consisting of:

(A) A black shirt; and

(B) Black pants.

(c) In the performance of his or her official duties, a constable shall drive a motor vehicle that is:

(1) Equipped with emergency equipment; and

(2) Clearly marked with a six-point star and the words "Arkansas Constable".

(d) The county may pay reasonable expenses associated with the requirements of this section.

History. Acts 2007, No. 841, § 2; 2011, No. 561, § 4; 2013, No. 1113, § 1; 2019, No. 151, § 10; 2019, No. 910, § 5921.

Amendments. The 2019 amendment by No. 151 substituted "Officer training" for "Officer II training" in (a)(2)(A).

The 2019 amendment by No. 910 substituted "training certified" for "training provided" in (a)(1)(A)(ii).

CHAPTER 15
OFFICERS

SUBCHAPTER.
3. County Coroners.
8. County Treasurers.
10. County Collectors.

Subchapter 3 — County Coroners

SECTION.
14-15-306. Disposition of prescription medication.
14-15-307. [Repealed.]
14-15-308. Training and instruction.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

14-15-306. Disposition of prescription medication.

(a) A coroner may collect and secure any prescription medication of the decedent to ensure that the medication does not come into the possession of a person who might use the medication in an illegal or harmful manner.

(b) Collected medication shall be disposed of under circuit court order or shall be forwarded to the Department of Health within thirty (30) days for proper destruction under § 20-64-214.

(c) This section shall not apply to any prescription medication in the custody or possession of an institutional healthcare provider or attending hospice nurse that is subject to other laws, rules, and regulations governing the destruction or disposition of patient or resident medication.

History. Acts 2007, No. 194, § 3; 2019, No. 315, § 986.

Amendments. The 2019 amendment inserted "rules" following "laws" in (c).

14-15-307. [Repealed.]

A.C.R.C. Notes. The repeal of this section by Acts 2019, No. 383, supersedes the amendment of this section by Acts 2019, No. 910. Acts 2019, No. 910, § 4855,

amended subdivision (a)(2)(G) to read as follows: "(G) The Secretary of the Department of Health or his or her designee; and".

Publisher's Notes. This section, concerning the creation, powers, and duties of the Coroner's Advisory Task Force, was repealed by Acts 2019, No. 383, § 4, effective July 24, 2019. The section was derived from Acts 2009, No. 1275, § 1; 2019, No. 910, § 4855.

14-15-308. Training and instruction.

(a) The Division of Law Enforcement Standards and Training, in coordination with the Department of Health, shall establish a training curriculum for medicolegal death investigators, coroners, and deputy coroners in Arkansas that consists of no less than sixteen (16) hours nor more than forty (40) hours of instruction, including without limitation courses on:

(1) Medicolegal death investigation leading to certification as a medicolegal death investigator;

(2) Scene investigation;

(3) Body recovery;

(4) Safety;

(5) Statutes and rules;

(6) Documentation and reporting;

(7) Communication and interviewing; and

(8) Proper completion of a death certificate and assignment of cause of death.

(b) The division shall:

(1) Issue a certificate of satisfactory participation and completion to a coroner, deputy coroner, or medicolegal death investigator who completes the instructional program required under subsection (a) of this section; and

(2)(A) Administer the funds for the payment and reimbursement for materials, speakers, mileage, lodging, meals, the cost of the certificate, and training equipment that are in addition to compensation allowed under §§ 14-14-1203, 14-14-1204, and 14-14-1206.

(B) The division may receive funding for coroner training through grants-in-aid, donations, and the County Coroners Continuing Education Fund.

(c) The commission shall provide death investigation training:

(1) Free of charge to a law enforcement officer, a state death investigator, and an employee of the State Crime Laboratory; and

(2) For a fee under a memorandum of understanding between the commission and the Arkansas Coroner's Association to coroners and deputy coroners.

(d)(1)(A) Within one (1) year of beginning employment as a deputy coroner, a person employed as a deputy coroner after January 1, 2020, shall complete the training required under this section and obtain a certificate under subdivision (b)(1) of this section or present a certificate from the American Board of Medicolegal Death Investigators.

(B) A deputy coroner under subdivision (d)(1)(A) of this section who does not comply with this subsection shall not continue employment or activity as a deputy coroner, including without limitation signing death certificates or assisting in death investigations.

(2) Within one (1) year of the date of employment of a deputy coroner, the coroner shall provide the county judge with the deputy coroner's:

(A) Name;

(B) Address;

(C) Starting date of employment; and

(D) Copy of the certificate under subdivision (d)(1)(A) of this section.

History. Acts 2013, No. 551, § 5; 2019, No. 238, § 1; 2019, No. 910, §§ 5922-5924.

A.C.R.C. Notes. Acts 2019, No. 238, § 2, provided:

"(a) Before January 1, 2021, a person who is employed as a deputy coroner as of January 1, 2020, shall complete the requirements of § 14-15-308.

"(b) A deputy coroner under subsection (a) of this section who does not comply with this section shall not continue employment or activity as a deputy coroner, including without limitation signing death certificates or assisting in death investigations".

Amendments. The 2019 amendment by No. 238 added (d).

The 2019 amendment by No. 910 substituted "Division of Law Enforcement Standards and Training" for "Arkansas Commission on Law Enforcement Standards and Training" in (a); and substituted "division" for "commission" twice in (b).

Subchapter 4 — Recorders

14-15-404. Effect of recording instruments affecting title to property.

CASE NOTES

Analysis

Constructive Notice.
Recording.
Subsequent Purchasers.

Constructive Notice.

Chapter 7 trustee was not allowed under 11 U.S.C.S. § 544 to avoid liens which a mortgagee held on real property Chapter 7 debtors owned in Arkansas because he was on notice of the mortgagee's interests; although two mortgages the mortgagee recorded contained only the street address of the debtors' property, the mortgages were not defective, they gave the trustee constructive notice of the mortgagee's liens and imposed a duty on the trustee to conduct an inquiry concerning the mortgagee's interests, and the trustee could have discovered the mortgagee's interests by making an inquiry to the assessor's office where the mortgages were recorded. Lee v. Ocwen Loan Servicing, LLC (In re Savage), 504 B.R. 921 (Bankr. W.D. Ark. 2014).

Recording.

To the extent the borrowers argued that the creditor had a duty to record any assignment of the note or mortgage, there was no such duty, given that a mortgage's efficacy as to the original parties was not diminished if the mortgage went unrecorded, as the purpose of recording was to give constructive notice to subsequent purchasers. Anderson v. CitiMortgage, Inc., 2014 Ark. App. 683, 450 S.W.3d 251 (2014).

In a declaratory judgment action, even if the five-year statute of limitations did not begin to run until there was notice that a first lease was being relied on, a complaint was time-barred due to a recor-

dation of an assignment; the recording served as constructive notice from the time the instrument was filed for record, and the case was filed more than 5 years after an assignment was recorded. The circuit court did not err by treating the claim as raising contract enforcement issues and applying the relevant statutory period of limitations. McDougal v. Sabine River Land Co., 2015 Ark. App. 281, 461 S.W.3d 359 (2015).

Subsequent Purchasers.

Court doubts that the principle that an unrecorded deed is not valid against a subsequent purchaser unless he had actual notice of the prior interest applies in mortgage priority disputes, given that every mortgage of real estate shall be a lien on the mortgaged property from the time it is filed in the recorder's office for record, and not before, and case law held that a defective mortgage constituted no notice to third parties of the existence of the mortgage. Ocwen Loan Servicing LLC v. Summit Bank, N.A. (In re Francis), 750 F.3d 754 (8th Cir. 2014).

Subchapter 5 — Sheriffs — Generally

14-15-503. Powers of deputies.

CASE NOTES

Authority of Deputies.

Lieutenant did not have a letter from the director of the Arkansas State Police authorizing his activities, but he was working interdiction on the interstate to locate drugs in vehicles as a deputy sheriff commissioned by the county sheriff's department, he produced his identification card showing his commission dates, and he testified that when he discovered defendant appeared to be intoxicated, he notified another lieutenant who was specifically working driving while intoxicated investigations; there was no clear error in the trial court's finding that the lieutenant was acting on behalf of the county when he conducted the traffic stop. Batchelor v. State, 2014 Ark. App. 682, 450 S.W.3d 245 (2014).

Subchapter 8 — County Treasurers

SECTION.

14-15-805. Duties generally.
14-15-811. Continuing education — Board and fund.

14-15-805. Duties generally.

It shall be the duty of each county treasurer to:

(1)(A) Receive and give receipt for all moneys payable into the county treasury and to pay and disburse the moneys on warrants or checks drawn by order of the county court.

(B) Any nonrevenue receipts as defined in § 21-6-302(f)(2) shall be deposited into the same county fund from which the original expenditure was made;

(2)(A) Refuse payment of any warrant or check that would cause a deficit balance in any special revenue account without an appropriated transfer of general funds to cover the deficit, except as provided in this section.

(B)(i) A grant account that operates as a reimbursable grant fund may operate with a deficit balance if there is a county general fund cash balance or an appropriate special revenue fund cash balance sufficient to support the deficit.

(ii) When the grant moneys are received by the county, the moneys shall be receipted to the proper grant fund by the county treasurer.

(iii) Any remaining deficit balance at the conclusion of the grant cycle shall be brought to a zero balance with an appropriated transfer of general funds or an appropriated transfer from the applicable special revenue fund; and

(3)(A) Maintain a positive general fund balance.

(B) The general fund shall include county general and any other ledger account on the treasurer's books accruable to county general.

(C) The treasurer shall refuse payment of any warrant or check that would cause a deficit balance of the general fund in aggregate.

History. Special Acts of 1923, No. 240, § 3; Rev. Stat., ch. 41, § 5; C. & M. Dig., § 1914; Pope's Dig., § 2431; A.S.A. 1947, § 12-1310; Acts 1993, No. 200, § 1; 2019, No. 310, § 1.

Amendments. The 2019 amendment restructured former (a) as the introductory language and (1)(A); added (1)(B); redesignated former (b) as (2)(A); redesignated the three sentences of former (c) as (3)(A)-(C); added "except as provided in this section" in (2)(A); deleted "It shall be the duty of each county treasurer to" from the beginning of (2)(A) and (3)(A); and made stylistic changes.

14-15-811. Continuing education — Board and fund.

(a) There is created the County Treasurer's Continuing Education Board, which shall be composed of the following members:

(1) Eight (8) members of the Arkansas County Treasurers' Association, designated by the Arkansas County Treasurers' Association;

(2) One (1) member designated by the Association of Arkansas Counties; and

(3) The Auditor of State or a person designated by the Auditor of State.

(b)(1) It shall be the responsibility of the board to establish a continuing education program for county treasurers of the various counties in the state. This program shall be designed to better equip persons elected to serve as county treasurers to carry out their official responsibilities in an effective and efficient manner. The program shall include requirements and procedures for an effective certification program for county treasurers.

(2) It shall also be the responsibility of the board to disburse any funds made available to it from the County Treasurers' Continuing Education Fund to establish and maintain a continuing education program and a certification program for county treasurers.

(c)(1) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State the County Treasurers' Continuing Education Fund.

(2)(A) The quorum court of each county shall annually appropriate and pay into the County Treasurers' Continuing Education Fund in the State Treasury the sum of seven hundred dollars ($700) from fees of the office of county treasurer.

(B) If any quorum court shall fail or refuse to appropriate and pay over the funds to the County Treasurers' Continuing Education Fund in the State Treasury, the Treasurer of State shall withhold funds from the county aid due to the county and shall credit the funds to the County Treasurers' Continuing Education Fund.

(d) The funds in the County Treasurers' Continuing Education Fund shall be used exclusively for:

(1) Establishing and operating a continuing education program for county treasurers;

(2) Paying the meals, lodging, registration fees, and mileage at the rate prescribed in state travel rules of county treasurers who attend the continuing education program;

(3) Acquiring educational materials; and

(4) Paying presenter fees and expenses.

History. Acts 1987, No. 944, §§ 1-3; 1989 (1st Ex. Sess.), No. 178, § 2; 1999, No. 342, § 1; 2001, No. 348, § 4; 2007, No. 246, § 1; 2013, No. 551, § 3; 2017, No. 443, §§ 1, 2; 2019, No. 315, § 987.

Amendments. The 2017 amendment deleted "six (6)" preceding "members" in the introductory language of (a); in (a)(1), substituted "Eight (8)" for "Four (4)"; redesignated former (d) as the introductory language of (d), (d)(1), and (d)(2); deleted "the establishment and operation of" following "exclusively for" in the introductory language of (d); in (d)(1), inserted "Establishing and operating" and deleted "and for paying" following "treasurers" at the end; added "Paying" in (d)(2); added (d)(3) and (d)(4); and made stylistic changes.

The 2019 amendment substituted "rules" for "regulations" in (d)(2).

Subchapter 10 — County Collectors

SECTION.
14-15-1001. Continuing education — Board and fund.

14-15-1001. Continuing education — Board and fund.

(a) There is created the County Collector's Continuing Education Board, which shall be composed of the following members:

(1) Eight (8) members of the Arkansas County Tax Collectors Association, designated by the Arkansas County Tax Collectors Association;

(2) One (1) member designated by the Association of Arkansas Counties; and

(3) The Auditor of State or a person designated by the Auditor of State.

(b)(1) It shall be the responsibility of the board to establish a continuing education program for county collectors and sheriff-collectors of the various counties in the state. This program shall be designed to better equip persons elected to serve as county collectors and as

sheriff-collectors to carry out their official responsibilities in an effective and efficient manner. The program shall include requirements and procedures for an effective certification program for county collectors.

(2) It shall also be the responsibility of the board to disburse any funds made available to it from the County Collectors' Continuing Education Trust Fund to establish and maintain a continuing education program and a certification program for county collectors.

(c)(1)(A) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State the County Collectors' Continuing Education Trust Fund.

(B) The quorum court of each county shall annually appropriate and pay into the fund in the State Treasury the sum of seven hundred dollars ($700) from fees of the office of county collector.

(C) If any quorum court shall fail or refuse to appropriate and pay over the funds to the County Collectors' Continuing Education Trust Fund in the State Treasury, the Treasurer of State shall withhold funds from the county aid due to the county and shall credit the funds to the County Collectors' Continuing Education Trust Fund.

(2) The County Collectors' Continuing Education Trust Fund shall consist of all moneys required to be paid in annually as set out herein, all interest earned from the investment of fund balances, and any remaining fund balances carried forward from year to year.

(d) The funds in the County Collectors' Continuing Education Trust Fund shall be used exclusively for:

(1) Establishing and operating a continuing education program for county collectors and sheriff-collectors;

(2) Paying the meals, lodging, registration fees, and mileage at the rate prescribed in state travel rules of county collectors and sheriff-collectors who attend the continuing education programs;

(3) Acquiring educational materials; and

(4) Paying presenter fees and expenses.

History. Acts 1989, No. 673, §§ 1-3; 1999, No. 342, § 2; 2001, No. 348, § 5; 2007, No. 246, § 2; 2013, No. 551, § 4; 2017, No. 443, §§ 3, 4; 2019, No. 315, § 988.

Amendments. The 2017 amendment, in the introductory language of (a), deleted "hereby" preceding "created" and deleted "six (6)" preceding "members" at the end; in (a)(1), substituted "Eight (8)" for "Four (4)" and twice substituted "Collectors" for "Collectors'"; redesignated former (d) as the introductory language of (d), (d)(1), and (d)(2); deleted "the establishment and operation of" following "exclusively for" in the introductory language of (d); in (d)(1), inserted "Establishing and operating" and deleted "and for paying" following "sheriff-collectors" at the end; added "Paying" in present (d)(2); added (d)(3) and (d)(4); and made stylistic changes.

The 2019 amendment substituted "rules" for "regulations" in (d)(2).

CHAPTER 16

POWERS OF COUNTIES GENERALLY

SUBCHAPTER.

1. General Provisions.

Subchapter 1 — General Provisions

SECTION.
14-16-105. Sale of county property generally.
14-16-106. Sale or disposal of surplus property.
14-16-116. Property exchange or transfer by counties.
14-16-117. Controlled burns.

14-16-105. Sale of county property generally.

(a) The county court of each county shall have power and jurisdiction to sell and cause to be conveyed any real estate or personal property belonging to the county and to appropriate the proceeds of the sale for the use of the county by proceeding in the manner set forth in this section.

(b)(1) When the county judge of a county shall consider it advisable and to the best interest of the county to sell and convey any real or personal property belonging to the county, he or she shall cause an order to be entered in the county court setting forth:

(A) A description of the property to be sold;

(B) The reason for the sale; and

(C) An order directing the county assessor to cause the property to be appraised at its fair market value and to certify his or her appraisal of the property to the county court within a time to be specified in the order.

(2) A certified copy of the order shall be delivered to the county assessor by the county clerk, and the county clerk shall certify the date of the delivery of the copy on the margin of the record where the order is recorded.

(3) An order and the procedures as used in this section shall not be required for any sale by the county of any materials separated, collected, recovered, or created by a recycling program authorized and operated by the county. However, the county judge shall maintain a record of the recyclable materials sold, whether they were sold at public or private sale, a description of the recyclables sold, the name of the purchaser, and the terms of the sale. All the proceeds of the sale shall be deposited with the county treasurer.

(4) An order and the procedures described in this section shall not be required for any conveyance by the county of a conservation easement as described in the Conservation Easement Act, § 15-20-401 et seq. However, this conveyance shall not be made unless authorized by a majority vote of the quorum court.

(5) If property is sold under § 14-16-106, the requirements of this section are not applicable.

(c)(1) Upon receipt of the certified copy of the order, the county assessor shall view the property described in the order and shall cause the property to be appraised at its fair market value.

(2) Within the time specified in the order, the assessor shall file with the county clerk his or her written certificate of appraisal of the property.

(d)(1) If the appraised value of the property described in the order is less than five thousand dollars ($5,000), the property may thereafter be sold and conveyed by the county judge, either at public or private sale, by sealed bids or internet sale for not less than three-fourths (¾) of the appraised value as shown by the certificate of appraisal filed by the assessor.

(2)(A) If the property will be sold by internet sale, the notice of sale shall be placed on the website of the internet vendor for no less than eight (8) consecutive days before the date of sale and shall contain a description of the property to be sold and the time of the sale.

(B) An additional notice may be posted on a county-owned or county-affiliated website, trade website, or business website for no less than eight (8) consecutive days before the date of sale.

(3)(A) When the sale has been completed, the county court shall enter its order approving the sale.

(B) The order shall set forth:

(i) The description of the property sold;

(ii) The name of the purchaser;

(iii) The terms of the sale;

(iv) That the proceeds of the sale have been deposited with the county treasurer; and

(v) The fund or funds to which the proceeds were credited by the county treasurer.

(e)(1)(A) If the appraised value of the property to be sold exceeds five thousand dollars ($5,000), the county judge may sell the property to the highest bidder, upon sealed bids received by the judge or by internet sale.

(B) The county judge shall not sell property under subdivision (e)(1)(A) of this section for less than three-fourths (¾) of the appraised value of the property as determined by the certificate of the assessor.

(2)(A) Notice of the sale shall be published for two (2) consecutive weekly insertions in some newspaper published and having a general circulation in the county.

(B) The notice shall specify:

(i) The description of the property to be sold;

(ii) The time and place for submitting written bids; and

(iii) The appraised value of the property to be sold.

(C) The notice shall be dated and signed by the judge.

(D) If the sale is conducted on the internet, the notice shall be placed on the internet under this section, and the invoice from the internet vendor or publisher shall be accompanied by a statement from the internet vendor or publisher that the sale was published and conducted on the internet.

(3) The judge shall have the right to reject any bids received by him or her under the notice.

(4)(A) When the judge has accepted a bid for the property, the judge may sell and convey the property to the highest bidder.

(B) When the sale has been approved and completed, the county court shall enter an order approving the sale, which shall set forth

the details of the sale as provided in subdivision (d)(3)(B) of this section.

(f)(1)(A) Any sale or conveyance of real or personal property belonging to any county not made under the terms of this section shall be null and void.

(B) The county fixed asset listing shall be amended to reflect all sales or conveyances made by the county under this section.

(C)(i) Any taxpayer of the county may bring an action to cancel the sale and to recover possession of the property sold within two (2) years from the date a sale is consummated.

(ii) This action for the use and benefit of the county is to be taken in the circuit court of the county in which the sale is made or in any county where personal property so sold may be found.

(iii) In the event the property is recovered for the county in the action, the purchaser shall not be entitled to a refund of the consideration paid by him or her for the sale.

(2) The procedures for sale and conveyance of county property set forth in this section shall not apply in these instances:

(A) When personal property of the county is traded in on new or used equipment and credit approximating the fair market price of the personal property is given to the county toward the purchase price of new equipment;

(B) When the sale of the personal property of the county involves the sale by the county of any materials separated, collected, recovered, or created by a recycling program authorized and operated by the county;

(C) When the county is conveying an easement, including, but not limited to, easements granted upon county lands for water improvements, sewer improvements, gas lines, electric lines, phone lines, utilities, railways, public roads, highways, and conservation easements as described in the Conservation Easement Act, § 15-20-401 et seq., for any of the purposes enumerated in the Conservation Easement Act, § 15-20-401 et seq., as the same may be amended from time to time;

(D) When the county is leasing county property, including, but not limited to, leasing county lands or property under §§ 14-16-108 — 14-16-110, or the Municipalities and Counties Industrial Development Revenue Bond Law, § 14-164-201 et seq.; or

(E) When a sale or disposal of property is conducted under another section of the Arkansas Code.

(g)(1) County hospitals constructed or maintained in whole or part by taxes approved by the voters shall not be sold unless the sale is approved by the majority of electors voting on the issue at a general or special election. This subsection is applicable to county hospitals constructed before and after July 20, 1987.

(2) An election shall not be required for the sale of a county hospital that has been vacant or not used as a county hospital for more than one hundred twenty (120) days.

History. Acts 1945, No. 193, §§ 1-6; 1963, No. 213, § 1; A.S.A. 1947, §§ 17-304 — 17-309; Acts 1987, No. 448, § 1; 1993, No. 732, § 1; 1997, No. 1107, §§ 1, 2; 2001, No. 1050, §§ 1, 2; 2005, No. 1240, § 1; 2009, No. 410, §§ 3 — 5; 2011, No. 614, § 3; 2011, No. 1014, § 1; 2019, No. 212, § 1.

Amendments. The 2019 amendment substituted "five thousand dollars ($5,000)" for "the sum of two thousand dollars ($2,000)" in (d)(1) and (e)(1)(A); in (e)(1), deleted the former (e)(1)(A)(i) designation and deleted (e)(1)(A)(ii); deleted "and best" following "highest" in (e)(1)(A); in (e)(1)(B), substituted "The county judge shall not sell property under subdivision (e)(1)(A) of this section" for "The property, when it exceeds the appraised value of two thousand dollars ($2,000), shall not be sold", and inserted "of the property"; deleted "including that the sale may be conducted on the Internet" following "bids" in (e)(2)(B)(ii); deleted "and if a majority of the board approves the sale" preceding "the judge may sell" in (e)(4)(A), and made stylistic changes.

14-16-106. Sale or disposal of surplus property.

(a) If it is determined by the county judge to be surplus, any personal or real property owned by a county may be sold at public auction or by internet sale to the highest bidder.

(b)(1) Notice of the public auction shall be published at least one (1) time a week for two (2) consecutive weeks in a newspaper having general circulation in the county.

(2) The notice shall specify the description of the property to be sold and the time and place of the public auction or internet sale.

(3)(A) If the property will be sold by internet sale, the notice of sale shall be placed on the website of the internet vendor for no less than eight (8) consecutive days before the date of sale and shall contain a description of the property to be sold and the time of the sale.

(B) An additional notice may be posted on a county-owned or county-affiliated website, trade website, or business website for no less than eight (8) consecutive days before the date of sale.

(c)(1) If it is determined by the county judge and the county assessor that any personal property owned by a county is junk, scrap, discarded, or otherwise of no value to the county, then the property may be disposed of in any manner deemed appropriate by the county judge.

(2) However, the county judge shall report monthly to the quorum court any property that has been disposed of under subdivision (c)(1) of this section.

(d) The county fixed asset listing shall be amended to reflect all sales or disposal of county property made by the county under this section.

(e) If the sale is conducted on the internet, the invoice from the internet vendor or publisher shall be accompanied by a statement from the internet vendor or publisher that the sale was published and conducted on the internet.

(f)(1) When the sale is complete, the county court shall enter an order approving the sale.

(2) The order shall set forth:

(A) The description of the property sold;

(B) The name of the purchaser;

(C) The terms of the sale;

(D) That the proceeds of the sale have been deposited with the county treasurer; and

(E) The funds to which the proceeds were credited by the county treasurer.

History. Acts 1980 (1st Ex. Sess.), No. 41, § 1; 1980 (1st Ex. Sess.), No. 63, § 1; A.S.A. 1947, § 17-322; Acts 1997, No. 364, § 1; 2005, No. 725, § 1; 2011, No. 614, § 4; 2011, No. 1014, § 2; 2019, No. 880, § 1.

Amendments. The 2019 amendment deleted "or Internet sale" following "public auction" in (b)(1).

14-16-116. Property exchange or transfer by counties.

(a) A county may:

(1) Exchange or transfer properties, real or personal, with other counties, municipalities, community colleges, or institutions of higher education; and

(2) Exchange real property with individuals or nonprofit corporations when in the best interest of the county.

(b)(1) An exchange or transfer under this section shall be:

(A) Authorized, approved, or confirmed by ordinance of the quorum court; and

(B) Accomplished in accordance with procedures prescribed or confirmed by the quorum court.

(2) An ordinance adopted by the quorum court under this section shall be:

(A) Confirmed by a two-thirds (2/3) vote of the quorum court; and

(B) Filed with the county clerk and include a copy of the bill of sale setting forth the terms and conditions of the sale, transfer, deed, or conveyance.

(c) An agreement for service, legal tender, or other consideration may be accepted in exchange for real or personal property under this section.

(d) A transfer made under this section is exempt from §§ 14-16-105 and 14-16-106, § 14-22-101 et seq., and the Arkansas Procurement Law, § 19-11-201 et seq.

History. Acts 1999, No. 1248, § 1; 2015, No. 98, § 1; 2019, No. 502, § 1.

Amendments. The 2015 amendment designated the former section as (a) and (b); in (a), inserted "or transfer" and substituted "counties, municipalities, community colleges, or institutions of higher education" for "counties or with municipalities"; in (b), substituted "An exchange or transfer under this section" for "Provided, any such exchange," deleted "shall be" preceding "accomplished," and inserted "or confirmed"; added (c) and (d); and inserted "or transfer" in the section heading.

The 2019 amendment substituted "A county may" for "Counties are authorized to" in (a); added the (a)(1) designation; added "and" at the end of (a)(1); added (a)(2); added the (b)(1), (b)(1)(A), and (b)(1)(B) designations and made related changes; substituted "Authorized, approved, or confirmed by ordinance" for "approved by ordinances" in (b)(1)(A); and added (b)(2).

14-16-117. Controlled burns.

A property owner in an unincorporated area of a county may conduct a controlled burn of a residence or structure on the property owner's property in the county if:

(1) The property owner applies to the county judge of that county and the fire department that is responsible for providing fire protection services for the property for approval to conduct the controlled burn;

(2) The application under subdivision (1) of this section is approved by the county judge and the fire department; and

(3) Before the approval under subdivision (2) of this section, the property owner demonstrates to the county judge and the fire department that:

(A) The property owner has complied with applicable state and federal environmental laws, rules, and regulations regarding asbestos abatement;

(B) The property owner ensures that the residence or structure is free of asbestos-containing materials, is free of contents, and otherwise demonstrates compliance with applicable state and federal environmental laws, rules, and regulations regarding hazardous wastes; and

(C) Provisions are made for the proper disposal of any remaining debris.

History. Acts 2015, No. 1274, § 1; 2017, No. 299, § 1; 2019, No. 315, § 989.

Amendments. The 2017 amendment inserted "in an unincorporated area of a county" in the introductory language; and substituted "county judge" for "quorum court" in (1), (2), and (3).

The 2019 amendment inserted "rules" following "laws" in (3)(A) and (3)(B).

CHAPTER 17

COUNTY PLANNING

SUBCHAPTER.

2. County Planning Boards.

Subchapter 2 — County Planning Boards

SECTION.

14-17-212. County regulation of residential building design elements prohibited — Findings — Exceptions — Definition.

14-17-203. Creation and organization.

CASE NOTES

Due Process.

Planning board member did not abuse the member's discretion as a board member, after a recusal due to a conflict of interest, by voicing the member's opposition as a member of the public at meetings and a review regarding an application for a large-scale development permit because the applicants for the permit, thereby. were not denied due process. Lewis v.

Benton County, 2014 Ark. App. 316, 436 S.W.3d 181 (2014).

14-17-212. County regulation of residential building design elements prohibited — Findings — Exceptions — Definition.

(a) The General Assembly finds that:

(1) The Fair Housing Act, 42 U.S.C. § 3601 et seq., decisions of the United States Supreme Court, and other provisions of federal law establish the principles and standards in this section;

(2) It is difficult and expensive for citizens to readily access fundamental property rights protection in federal court; and

(3) This section is necessary to ensure property rights protection is accessible and to ensure state law is consistent with federal law.

(b) A county shall not regulate residential building design elements.

(c)(1) As used in this section, "residential building design elements" means:

(A) Exterior building color;

(B) Type or style of exterior cladding material;

(C) Style or materials of roof structures, roof pitches, or porches;

(D) Exterior nonstructural architectural ornamentation;

(E) Location, design, placement, or architectural styling of windows and doors, including garage doors and garage structures;

(F) The number and types of rooms;

(G) The interior layout of rooms; and

(H) The minimum square footage of a structure.

(2) As used in this section, "residential building design elements" does not include:

(A) The height, bulk, orientation, or location of a structure on a lot; or

(B) Buffering or screening used to:

(i) Minimize visual impacts;

(ii) Mitigate the impacts of light and noise; or

(iii) Protect the privacy of neighbors.

(d) This section does not apply to:

(1) A structure located in an area designated as a local historic district under applicable state law;

(2) A structure located in an area designated as a historic district on the National Register of Historic Places;

(3) A structure designated as a local, state, or national historic landmark;

(4) A regulation created by a valid private covenant or other contractual agreement among property owners relating to residential building design elements, including without limitation a cooperative contractual agreement between a property owner and a county;

(5) A regulation directly and substantially related to the requirements of applicable state or federal building or safety codes;

(6) A regulation applied to manufactured housing in a manner consistent with applicable law;

(7) A regulation adopted as a condition for participation in the National Flood Insurance Program;

(8) A central business improvement district under the Central Business Improvement District Act, § 14-184-101 et seq.;

(9) A multifamily residential structure or other nonsingle-family dwelling;

(10) The application of a county policy, regulation, or ordinance affecting residential building design elements on an existing property on or before February 28, 2019, but not as to any other property thereafter;

(11) A county policy, regulation, or ordinance derived from the county's police power and directly related to an established immediate public health or safety hazard;

(12) A valid exercise of express statutory authority to regulate residential building design elements under § 14-95-101 et seq., concerning urban service districts; or

(13) A policy or regulation of an overlay district, if before the policy or regulation is implemented:

(A) Notice is provided to property owners of an overlay district under § 14-56-422;

(B) A petition to support the policy or regulation is attached with signatures of a majority of property owners in the proposed overlay district; and

(C) The overlay district makes a determination that the policy or regulation complies with the Private Property Protection Act, § 18-15-1701 et seq.

History. Acts 2019, No. 446, § 1.

CHAPTER 18

PLATTED LANDS OUTSIDE MUNICIPALITIES

14-18-105. Authority to vacate street, alley, or roadway.

CASE NOTES

Cited: Andreasen v. South Mt. Estates Prop. Owners Ass'n, 2018 Ark. App. 530, 564 S.W.3d 262 (2018).

CHAPTER 20

QUORUM OR LEVYING COURTS

SECTION.
14-20-103. Appropriations to be specific — Limitation.
14-20-105. Monthly report by county treasurer or county comptroller.
14-20-108. Dues for volunteer fire departments.

Effective Dates. Acts 2015, No. 693, § 2: Mar. 25, 2015. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there are scores of volunteer fire departments in this state; that in many areas the only fire protection available is through the local volunteer fire department; and that this act is immediately necessary to ensure the volunteer fire departments can remain viable and continue to serve the state. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-20-103. Appropriations to be specific — Limitation.

(a) The quorum court shall specify the amount of appropriations for each purpose in dollars and cents, and except as authorized in this section, the total amount of appropriations for all county or district purposes for any one (1) year shall not exceed ninety percent (90%) of the anticipated revenues for that year.

(b)(1) The quorum court may appropriate for any one (1) year up to one hundred percent (100%) of the anticipated revenues for that year for federal or state grants overseen by the county.

(2) For revenues to qualify as a grant under this section, the county shall demonstrate that the state or federal agency characterized the revenues as a grant.

(c)(1) In any county in which a natural disaster, including without limitation a flood or tornado, results in the county's being declared a disaster area by the Governor or an appropriate official of the United States Government, the quorum court may appropriate in excess of ninety percent (90%) of anticipated revenues.

(2) However, appropriation of funds in excess of ninety percent (90%) of anticipated revenues shall be made only for street cleanup and repair, collection, transportation and disposal of debris, repair or replacement of county facilities and equipment, and other projects or costs directly related to or resulting from the natural disaster.

(d)(1) In any county in which sales and use tax revenues have been dedicated for a specific purpose, the quorum court may appropriate up to one hundred percent (100%) of anticipated revenues from the dedicated sales and use tax, provided that any appropriation of funds up to one hundred percent (100%) of anticipated revenues shall be made and expended only for the dedicated specific purpose of the tax.

(2) Subdivision (d)(1) of this section shall not:

(A) Apply to dedicated revenues that have been pledged for bonds; or

(B) Include general sales and use tax revenues.

(e) In any county in which the quorum court deems it financially necessary, the quorum court may appropriate for any one (1) year in excess of ninety percent (90%) of the commissions and tax revenues

anticipated for that year for the county general fund operation of the offices of assessor, collector, and treasurer.

History. Acts 1879, No. 77, § 7, p. 109; C. & M. Dig., § 1985; Pope's Dig., § 2530; Acts 1973, No. 128, § 1; A.S.A. 1947, § 17-411; Acts 1989, No. 141, § 1; 1991, No. 60, § 1; 1997, No. 711, § 1; 2005, No. 876, § 1; 2007, No. 17, § 1; 2015, No. 406, § 1.

Amendments. The 2015 amendment, in (a), deleted "county" preceding "quorum court", deleted "subsections (c) and (d) of" preceding "this section", and deleted "except for federal or state grants overseen by counties for which the court may appropriate up to one hundred percent (100%) of the anticipated revenues for that year" at the end; inserted (b)(1) and redesignated (b) as (b)(2); substituted "shall" for "must" in present (b)(2); in (c)(1), substituted "without limitation" for "but not limited to", and deleted "of the county" preceding "may appropriate"; substituted "However" for "Provided, any" in (c)(2); deleted "of the county" preceding "may appropriate" in (d)(1); and added (e).

14-20-105. Monthly report by county treasurer or county comptroller.

The county treasurer or the county comptroller shall submit each month to the county quorum court a full report and a detailed statement of the financial condition of the county, showing receipts, disbursements, and balance on hand.

History. Acts 1975, No. 130, § 20; A.S.A. 1947, § 17-448; Acts 1987, No. 724, § 1; 1995, No. 232, § 3; 2019, No. 310, § 2.

Amendments. The 2019 amendment inserted "or the county comptroller".

14-20-108. Dues for volunteer fire departments.

(a)(1)(A) The quorum court of each county, upon request filed with the quorum court by one (1) or more volunteer fire departments in the county, may adopt an ordinance authorizing a designated county official to collect and remit to the volunteer fire department the annual dues charged by the volunteer fire department in consideration of providing fire protection to unincorporated areas in the county.

(B)(i)*(a)* When a quorum court receives a request for the levy of volunteer fire department dues and the request has been signed by the fire chief and the chair and secretary of the board of directors, if any, of a volunteer fire department and filed with the county clerk, the quorum court by ordinance shall call for an election on the issue of the levy of the volunteer fire department dues on each residence and on each business having an occupiable structure.

(b)(1) The issue may be placed on the ballot at a special election by order of the quorum court in accordance with § 7-11-201 et seq.

(2) The special election shall be held by August 1.

(c) If an attested petition is filed with the county clerk and signed by a majority of registered voters in the volunteer fire department district voting in the immediately preceding general election, then

the quorum court by ordinance shall dispense with a special election on the issue of the levy of volunteer fire department dues.

(d)(1) If the levy of volunteer fire department dues is approved by a majority of those voting on the issue or the county clerk determines that the number of signatures of registered voters is sufficient and the quorum court dispenses with a special election, the volunteer fire department dues shall be listed annually on real property tax statements and collected by the county collector at the same time and in the same manner as real property taxes.

(2)(A) The county collector shall report delinquencies to the volunteer fire department for collection.

(B) A volunteer fire department may collect volunteer fire department dues that have become delinquent and may enforce collection by proceedings in a court of proper jurisdiction.

(ii) The cost of the election shall be borne by the volunteer fire department that requested the levy.

(2) The ordinance enacted by the quorum court shall set forth the terms and conditions on which the volunteer fire department dues are to be collected by the county and for the remission of the volunteer fire department dues to the volunteer fire department.

(3) However, an active member of a volunteer fire department whose annual volunteer fire department dues are collected in this manner may be exempt from the annual volunteer fire department dues at the discretion of the volunteer fire department in consideration of providing services to the volunteer fire department.

(b)(1) The quorum court by majority vote may designate the geographical area that a volunteer fire department serves.

(2) Upon request by a volunteer fire department, the quorum court of each county involved may authorize a volunteer fire department to extend its geographical service area across the county boundary lines.

(c) The quorum court may establish its own countywide fire department, either regular or voluntary.

(d) This section does not change the authority of intergovernmental cooperation councils to enter into reciprocal agreements or to distribute funds under § 14-284-401 et seq. and § 26-57-614.

(e)(1) If approved by ordinance by the governing body of an incorporated town or a city of the second class on the signed request of the fire chief and the chair and secretary of the board of directors, if any, of a volunteer fire department, an incorporated town or a city of the second class located in the volunteer fire department district that is not served by a fire department may be included in the fire protection area with the volunteer fire department dues levied and collected in the same manner as in the unincorporated areas served by the volunteer fire department district.

(2)(A) The governing body of the incorporated town or city of the second class by ordinance shall call for an election on the ordinance under subdivision (e)(1) of this section.

(B) The issue may be placed on the ballot at a special election by order of the governing body in accordance with § 7-11-201 et seq., and the special election shall be held by August 1.

(C) If the issue is approved by a majority of those voting on the issue, the incorporated town or city of the second class shall be served by the volunteer fire department district with the volunteer fire department dues levied and collected in the same manner as in the unincorporated areas served by the volunteer fire department district.

(D) The cost of the election shall be borne by the governing body of the incorporated town or city of the second class that called for the election.

(f) At the discretion of a volunteer fire department, a church served by a volunteer fire department may be exempt from volunteer fire department dues if the church is exempt from real property taxes.

(g)(1)(A) By December 15 of each year or upon the creation of a volunteer fire department, a volunteer fire department that uses or intends to use the county collector for collection of the volunteer fire department dues shall file an annual report with the county clerk in any county in which a portion of the volunteer fire department is located.

(B) The county clerk shall not charge any costs or fees for filing the annual report.

(C) The volunteer fire department shall deliver a filed copy of the annual report to the county collector within five (5) days of filing.

(2) The annual report shall contain the following information as of December 15 of the current calendar year:

(A) Identification of the volunteer fire department board members and contact information;

(B) The contact information for the volunteer fire department chief;

(C) Information concerning to whom the official designated to remit the volunteer fire department dues is to pay volunteer fire department dues; and

(D) The amount of the annual dues charged by the volunteer fire department by parcel or on each residence or business having an occupiable structure.

(h) The official designated to remit the volunteer fire department dues under this section shall not remit the dues collected by the county collector to any volunteer fire department until the annual report has been filed.

(i) A volunteer fire department that is required to file a report under § 14-86-2102 is not required to file a separate report under this section.

(j) This section applies to all volunteer fire departments, however organized.

History. Acts 1977, No. 512, § 1; A.S.A. 1947, § 17-455; Acts 1991, No. 1038, § 1; 1995, No. 744, § 1; 2001, No. 984, §§ 1, 2; 2003, No. 201, § 1; 2005, No. 2145, § 18;

2007, No. 96, § 1; 2007, No. 1049, § 36; 2009, No. 300, § 1; 2009, No. 1480, § 52; 2015, No. 693, § 1.

Amendments. The 2015 amendment inserted "volunteer fire department" preceding "dues" in (a)(1)(B)(i)*(d)(2)(B)*, (a)(2), (e)(1), (e)(2)(C), and (f); deleted "or quarterly" following "annual" in (a)(1)(A); inserted present (a)(1)(B)(i)*(c)* and redesignated former (a)(1)(B)(i)*(c)* as (a)(1)(B)(i)*(d)*; in (a)(1)(B)(i)*(d)(1)*, inserted "of volunteer fire department dues," "or the county clerk determines that the number of signatures of registered voters is sufficient and the quorum court dispenses with a special election," and "volunteer fire department" preceding "dues shall be"; in (a)(3), substituted "whose annual volunteer fire department dues" for "whose annual or quarterly dues" and "annual volunteer fire department dues at the discretion" for "annual or quarterly dues charged by the volunteer fire department at the discretion"; substituted "to extend its geographical service area" for "to serve a geographical area to extend" in (b)(2); substituted "signed request of" for "request of and signed by" in (e)(1); and added (g) through (j).

CHAPTER 21

COUNTY FUNDS

SUBCHAPTER.

1. General Provisions.
2. County Drug Enforcement Fund.

Subchapter 1 — General Provisions

SECTION.

14-21-102. Annual financial report. [Effective January 1, 2020.]

Effective Dates. Acts 2019, No. 564, § 3: Jan. 1, 2020.

14-21-102. Annual financial report. [Effective January 1, 2020.]

(a)(1) The clerk of the county court and the county treasurer shall make out or cause to be made out a full and complete annual financial report of the county, using the financial records of the county clerk and county treasurer, giving:

(A) The treasurer's report of the beginning cash balance;

(B) The treasurer's report as to the amount of revenue from each source classification;

(C) The treasurer's report as to the ending cash balance;

(D) The county clerk's report as to the amount expended during the fiscal year for all purposes; and

(E) A statement of the bonded indebtedness and short-term indebtedness of the county.

(2) The annual county financial report shall include all operating accounts of the county for which the quorum court has appropriating control.

(3) The treasurer shall submit all reports required under this section to the clerk of the county court by March 1.

(b)(1)(A) The clerk of the county court shall publish the annual financial report of the county:

(i) One (1) time in one (1) newspaper published in the county; and

(ii) On a website owned or maintained by the county, the state, or the Association of Arkansas Counties.

(B) If a newspaper is not published in the county, the clerk of the county court shall publish the annual financial report of the county one (1) time in the newspaper having the largest circulation in the county.

(2) The annual financial report shall be published by March 15 of each year for the previous fiscal year of the county.

(c) All costs associated with the publication of the annual financial report of the county may be prorated equally between the clerk of the county court and the county treasurer.

History. Acts 1993, No. 538, §§ 2, 3; 1995, No. 232, § 4; 2009, No. 315, § 1; 2011, No. 614, § 5; 2019, No. 564, § 2.

Publisher's Notes. For text of section effective until January 1, 2020, see the bound volume.

Amendments. The 2019 amendment substituted "shall publish the annual financial report" for "shall cause to be published one (1) time in one (1) newspaper published in the county the annual financial report" in (b)(1)(A); added (b)(1)(A)(i) and (b)(1)(A)(ii); and substituted "If a newspaper is not published in the county, the clerk of the county court shall publish the annual financial report of the county one (1) time" for "If no newspaper is published in the county, then the clerk of the county court shall cause the annual financial report of the county to be published one (1) time" in (b)(1)(B).

Effective Dates. Acts 2019, No. 564, § 3: Jan. 1, 2020.

Subchapter 2 — County Drug Enforcement Fund

SECTION.

14-21-202. Restrictions on use of funds.

14-21-202. Restrictions on use of funds.

(a) Drug enforcement funds shall be used only for direct expenses associated with the investigation of the criminal drug laws of this state, including without limitation:

(1) The purchase of evidence;

(2) The payment of informants;

(3) The relocation or security of witnesses, or both;

(4) Emergency supply purchases; and

(5) Emergency travel expenses.

(b) Drug enforcement funds shall not be used for:

(1) Equipment purchases or leasing, salaries or wages, professional services, training, or any other purpose not directly related to a criminal drug investigation; or

(2) Administrative costs associated with the sheriff's office.

History. Acts 1997, No. 362, § 2; 2019, No. 383, § 5.

Amendments. The 2019 amendment, in (a), substituted "shall be used only" for "may only be used" and substituted "including without limitation" for "such as, but not limited to"; added the (a)(1) through (a)(5), (b)(1), and (b)(2) designations; added "The" in (a)(2) and (a)(3); in (a)(3), substituted "or" for "and/or", and added "or both"; substituted "shall" for "may" in the introductory language of (b); and deleted "In addition, these funds may not be used for" from the beginning of (b)(2).

CHAPTER 22

COUNTY PURCHASING PROCEDURES

SECTION.

14-22-101. Definitions.
14-22-106. Purchases exempted from soliciting bids.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

14-22-101. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Commodities" means all supplies, goods, material, equipment, machinery, facilities, personal property, and services other than personal services, purchased for or on behalf of the county;

(2) "Formal bidding" means the procedure to be followed in the solicitation and receipt of sealed bids, wherein:

(A) Notice shall be given of the date, time, and place of opening of bids, and the names or a brief description and the specifications of the commodities for which bids are to be received, by one (1) insertion in a newspaper with a general circulation in the county, not less than ten (10) days nor more than thirty (30) days prior to the date fixed for opening such bids;

(B) Not less than ten (10) days in advance of the date fixed for opening the bids, notices and bid forms shall be furnished to all eligible bidders on the bid list for the class of commodities on which bids are to be received, and to all others requesting them; and

(C) At least ten (10) days in advance of the date fixed for opening bids, a copy of the notice of invitation to bid shall be posted in a conspicuous place in the county courthouse;

(3) "Open market purchases" means those purchases of commodities by any purchasing official in which competitive bidding is not required;

(4) "Purchase" means not only the outright purchase of a commodity, but also the acquisition of commodities under rental-purchase agreements or lease-purchase agreements or any other types of agreements whereby the county has an option to buy the commodity and to apply the rental payments on the purchase price thereof;

(5) "Purchase price" means the full sale or bid price of any commodity, without any allowance for trade-in;

(6) "Purchasing official" means any county official, individual, board, or commission, or his or her or its lawfully designated agent, with constitutional authority to contract or make purchases on behalf of the county;

(7) "Trade-in purchases" means all purchases where offers must be included with the bids of each bidder for trade-in allowance for used commodities; and

(8)(A) "Used or secondhand motor vehicles, equipment, or machinery" means motor vehicles, equipment, or machinery at least one (1) year in age from the date of original manufacture or that has at least two hundred fifty (250) working hours' prior use or five thousand (5,000) miles' prior use.

(B)(i) A purchase of a used motor vehicle, equipment, or machinery shall be accompanied by a statement in writing from the vendor on the bill of sale or other document that the motor vehicle, equipment, or machinery is at least one (1) year in age from the date of original manufacture or has been used a minimum of two hundred fifty (250) hours or driven a minimum of five thousand (5,000) miles.

(ii) This statement shall be filed with the county clerk at the time of purchase.

History. Acts 1965 (1st Ex. Sess.), No. 52, § 2; 1975, No. 439, § 2; 1975, No. 617, § 2; 1985, No. 844, § 1; A.S.A. 1947, § 17-1602; Acts 2001, No. 219, § 1; 2009, No. 410, § 8; 2009, No. 756, § 21; 2015, No. 561, § 1.

Amendments. The 2015 amendment, in (8)(A) and (B), substituted "one (1) year" for "two (2) years," substituted two hundred fifty (250)" for "five hundred (500)," and substituted "five thousand (5,000)" for "ten thousand (10,000)."

14-22-106. Purchases exempted from soliciting bids.

The following listed commodities may be purchased without soliciting bids:

(1) Perishable foodstuffs for immediate use;

(2) Unprocessed feed for livestock and poultry;

(3) Advanced emergency medical services provided by a nonprofit corporation and proprietary medicines when specifically requested by a professional employee;

(4) Books, manuals, periodicals, films, and copyrighted educational aids for use in libraries and other informational material for institutional purposes;

(5) Scientific equipment and parts therefor;

(6) Replacement parts and labor for repairs of machinery and equipment;

(7) Commodities available only from the United States Government;

(8)(A) Any commodities needed in instances in which an unforeseen and unavoidable emergency has arisen in which human life, health, or public property is in jeopardy.

(B) An emergency purchase under subdivision (8)(A) of this section shall not be approved unless a statement in writing is attached to the purchase order describing the emergency necessitating the purchase of the commodity without competitive bidding;

(9) Utility services, the rates for which are subject to regulation by a state agency or a federal regulatory agency;

(10) Sand, gravel, soil, lumber, used pipe, or used steel;

(11) Used or secondhand motor vehicles, machinery, or equipment, except a used or secondhand motor vehicle that has been under lease to a county when the vehicle has fewer than five thousand (5,000) miles of use shall not be purchased by the county when it has been used five thousand (5,000) miles or more except upon competitive bids as provided in this chapter;

(12) Machinery, equipment, facilities, or other personal property purchased or acquired for or in connection with the securing and developing of industry under the Municipalities and Counties Industrial Development Revenue Bond Law, § 14-164-201 et seq., or any other provision of law pertaining to the securing and developing of industry;

(13) Registered livestock to be used for breeding purposes;

(14) Motor fuels, oil, asphalt, asphalt oil, and natural gas;

(15) Motor vehicles, equipment, machinery, material, or supplies offered for sale at public auction or through a process requiring sealed bids;

(16) All goods and services that are regularly provided to state agencies and county government by the Division of Correction's various penal industries;

(17)(A) New motor vehicles purchased from a licensed automobile dealership located in Arkansas for an amount not to exceed the fleet price awarded by the Office of State Procurement and in effect at the time the county submits the purchase order for the same make and model motor vehicle.

(B) The purchase amount for a new motor vehicle may include additional options up to six hundred dollars ($600) over the fleet price awarded;

(18) Renewal or an extension of the term of an existing contract;

(19) Purchase of insurance for county employees, including without limitation health insurance, workers' compensation insurance, life insurance, risk management services, or dental insurance;

(20) Purchases made through programs of the National Association of Counties or the Association of Arkansas Counties;

(21) Goods or services if the quorum court has approved by resolution the purchase of goods or services through competitive bidding or procurement procedures used by:

(A) The United States Government or one (1) of its agencies;

(B) Another state; or

(C) An association of governments or governmental agencies including associations of governments or governmental agencies below the state level; and

(22)(A) Goods or services available only from a single source.

(B) A purchase under this subdivision (22) shall be supported with:

(i) Documentation concerning the exclusivity of the single source; and

(ii) A county court order filed with the county clerk that sets forth the basis for the single source procurement.

History. Acts 1965 (1st Ex. Sess.), No. 52, § 6; 1975, No. 439, §§ 5, 6; 1975, No. 617, §§ 5, 6; 1981, No. 306, § 1; 1985, No. 844, §§ 2, 3; A.S.A. 1947, § 17-1606; Acts 1989, No. 879, § 1; 1991, No. 786, § 12; 1993, No. 237, § 1; 2001, No. 219, § 2; 2007, No. 13, § 1; 2009, No. 410, §§ 9, 10; 2009, No. 756, § 22; 2011, No. 1044, § 1; 2013, No. 465, § 1; 2015, No. 561, § 2; 2019, No. 910, § 846.

Amendments. The 2015 amendment, in (11), deleted "that" following "except" and substituted "five thousand (5,000)" for "ten thousand (10,000)" twice.

The 2019 amendment substituted "Division of Correction's" for "Department of Correction's" in (16).

CHAPTER 24

COUNTY WARRANTS

SUBCHAPTER.

1. General Provisions.
2. Payment by Check.

Subchapter 1 — General Provisions

SECTION.

14-24-121. Electronic warrants transfer system.

14-24-121. Electronic warrants transfer system.

(a) The quorum court of each county may establish by ordinance an electronic warrants transfer system directly into payees' accounts in financial institutions in payment of any account allowed against the county.

(b)(1) For purposes of this section, counties opting for the electronic warrants transfer system shall establish written policies and procedures to ensure that the electronic warrants transfer system provides

for internal accounting controls and documentation for audit and accounting purposes.

(2) The electronic warrants transfer system under subdivision (b)(1) of this section shall comply with the information systems best practices approved by the Legislative Joint Auditing Committee before implementation by the county.

(c) A single electronic warrants transfer may contain payments to multiple payees, appropriations, characters, and funds.

History. Acts 1997, No. 329, § 1; 2009, No. 500, § 2; 2019, No. 138, § 1.

Amendments. The 2019 amendment substituted "written policies and procedures to ensure that the electronic warrants transfer system" for "their own electronic payment method that" in (b)(1); substituted "warrants transfer system" for "payment method", and substituted "shall comply with the information systems best practices" for "shall be" in (b)(2).

Subchapter 2 — Payment by Check

SECTION.
14-24-204. Payment generally.

14-24-204. Payment generally.

(a)(1) It is the intent of this subchapter that after a claim has been properly presented to a county court with a proper certification and itemization thereof, as provided by law, then upon approval the county clerk may cause a check to be prepared in payment of the claim. This check must be accompanied by an attached certification from the clerk stating that the check is for payment of a valid claim against the county, properly presented and allowed, as provided by law, the check being presented to the county treasurer for his or her signature, the check being in duplicate form, allowing for the following information and distribution:

(A) An original check, after being transmitted to the treasurer for his or her signature, will be delivered to the party presenting the claim to the treasurer; and

(B)(i) A duplicate copy of the check, which will provide the printed certification thereon by the clerk to the treasurer and provide for the original signature of the clerk on the certification, will be maintained by the treasurer.

(ii) A duplicate copy of the check may be retained in electronic form rather than paper.

(2)(A) The checks shall be prenumbered and designed in such form that the particular fund affected out of which the check is to be paid is noted thereon.

(B) A county may use computer equipment for check preparation if the use of an automated software program that accomplishes the same purpose as prenumbered checks and other required denotations is in compliance with the Information Systems Best Practices Checklist provided by the Legislative Joint Auditing Committee.

(b)(1) In lieu of the provisions of this section pertaining to the issuance of a check in duplicate form, if a county so chooses, the following provisions may apply:

(A) Once the aforementioned claim procedures have been completed, the treasurer may cause a check to be prepared in payment of claims filed with the county court;

(B) Each claim properly recorded and approved for payment by the county court shall be proper certification from the clerk to the treasurer that a valid claim exists; and

(C)(i) The checks shall be prenumbered and so designed that the particular fund affected out of which the check is to be paid shall be noted thereon.

(ii) A county may use computer equipment for check preparation if the use of an automated software program that accomplishes the same purpose as prenumbered checks and other required denotations is in compliance with the Information Systems Best Practices Checklist provided by the Legislative Joint Auditing Committee.

(2) The check drawn in connection with the disbursement of county funds for which the county treasurer is responsible shall:

(A) Bear the manual signature of the county treasurer or his or her authorized deputy; or

(B)(i) Contain or bear a mechanically produced facsimile signature of the county treasurer under § 21-10-101.

(ii) The county treasurer may use his or her computer-generated digitized signature when the county treasurer has established adequate internal administrative procedures and controls approved by the Legislative Joint Auditing Committee.

History. Acts 1975, No. 22, § 3; 1981, No. 525, § 1; A.S.A. 1947, § 17-827; Acts 2007, No. 75, § 1; 2009, No. 500, § 1; 2011, No. 614, § 8; 2013, No. 451, §§ 1, 2; 2017, No. 369, § 1.

Amendments. The 2017 amendment redesignated the former introductory language in (b) as present (b)(1); redesignated former (b)(1) and (b)(2) as (b)(1)(A) and (b)(1)(B); redesignated former (b)(3)(A) and (b)(3)(B) as (b)(1)(C)(i) and (b)(1)(C)(ii); and added present (b)(2).

CHAPTER 25

COUNTY ACCOUNTING AND RESPONSIBLE MANAGEMENT ENTITY

SUBCHAPTER.

1. Arkansas County Accounting Law of 1973.
2. Community Sewer System Management.

Subchapter 1 — Arkansas County Accounting Law of 1973

SECTION.

14-25-112. Sheriff.
14-25-114. County treasurer.

Effective Dates. Acts 2015, No. 741, § 6: Jan. 1, 2016.

14-25-112. Sheriff.

(a) The sheriff, in addition to following the procedures and requirements of §§ 14-25-101 — 14-25-108, shall establish and maintain a cash receipts journal and a cash disbursements journal for each bank account.

(b)(1) Checks written shall be recorded in a cash disbursements journal that indicates the date, payee, check number, and amount of each check written.

(2)(A) A debit card may be issued to a released inmate rather than a check for the balance in his or her account in order to dispose of the inmate's commissary trust account.

(B) If a debit card is issued rather than a check, proper accounting of the funds must still be maintained in compliance with the written procedures established by the Legislative Joint Auditing Committee.

(3) The cash disbursements journal shall also contain the classification of the disbursement.

(c)(1) Receipts shall be recorded in a cash receipts journal that indicates the:

(A) Date of the receipt;

(B) Identification of payor;

(C) Receipt number;

(D) Total amount received; and

(E) Classification of receipts.

(2) If mechanical receipting devices such as cash registers are used, the cash receipts journal shall indicate the:

(A) Date of collections;

(B) Tape number, if applicable;

(C) Total amount collected; and

(D) Classification of collections.

(d)(1) The cash disbursements journal and the cash receipts journal shall be totaled monthly and on a year-to-date basis.

(2) The cash disbursements journal shall be reconciled monthly to total bank disbursements as indicated on the monthly bank statements.

(3) The cash receipts journal shall be reconciled monthly to total bank deposits as shown on the monthly bank statement.

(e) The sheriff shall be required to maintain such books and records as prescribed by this chapter and shall keep all books and records posted on a current basis, making an entry into the cash receipts journal for all items of cash receipts and an entry into the cash disbursements journal for each disbursement made.

(f) The sheriff shall provide a copy of the reconciled cash disbursements journal and a copy of the reconciled cash receipts journal to the county treasurer by the tenth day of each calendar month for the county

sheriff's communications facility and equipment fund or other fund that may not be on the books of the county treasurer.

(g) Arkansas Legislative Audit shall review for substantial compliance with this section.

History. Acts 1973, No. 173, § 13; A.S.A. 1947, § 17-1813; Acts 2009, No. 287, § 7; 2013, No. 1158, § 2; 2015, No. 741, § 2.

Amendments. The 2015 amendment added (f) and (g).

Effective Dates. Acts 2015, No. 741, § 6: Jan. 1, 2016.

14-25-114. County treasurer.

(a)(1) The county treasurer shall receive and receipt for all moneys payable to the county treasury and pay and disburse them on warrants or checks drawn by order of the county court.

(2) The treasurer shall keep a true and accurate account of all moneys received and disbursed and a true and accurate record of all warrants or checks paid by him or her.

(3) The treasurer shall maintain and issue prenumbered receipts for all moneys paid into the treasury in accordance with § 14-25-108.

(b) The treasurer shall establish and maintain the following accounting practices, in relation to the operations of the office:

(1) The number and date of checks paying warrants where the county is using a system of paying several warrants presented by the bank shall be identified with the warrants in posting to the treasurer's book or record of accounts;

(2) The check number and its date shall be entered on the warrant, and the warrant number and its date shall be entered on the face of the check and on the check stub, as well as the account represented;

(3) Postings to the treasurer's book or record of accounts of warrants and checks shall be under the transaction date on the instruments, not the date the items are entered in the books or records of accounts;

(4) Banks shall be requested to present all warrants held at the end of the month promptly so that they may be included in the treasurer's book or record of accounts in the month to which they pertain;

(5) All funds in the treasurer's book or record of accounts shall be reconciled with the bank monthly. Reconciliations shall be retained and filed with the bank statements;

(6) Clear reference shall be made in the treasurer's book or record of accounts as to the origins of all moneys. This may be by notation citing the origin, date, receipt number, and other pertinent information;

(7) Transfers shall clearly state the fund to which the moneys are being transferred, and the recipient fund shall state the origin of its receipt;

(8) A brief explanation of the computation of the treasurer's commission to provide a clear and permanent record of how the commission was determined shall be maintained;

(9) Corrections to the treasurer's book or records of accounts shall be entered at the time of discovery and under the date of the entry into the

treasurer's records. A notation shall be made at the erroneous balance if it is at a previous date, but under no circumstances shall a previous month's balance be changed when it has been brought forward into the succeeding period;

(10) Receipts shall be prepared for all moneys received, but shall never be used to effect any other type of accounting transaction. Bank deposits shall be intact, prompt, and identified as to type of receipts;

(11) Copies of all receipts shall be retained, including copies of voided receipts;

(12) Printers' certificates shall be obtained and kept for each printing order of formally prenumbered receipts;

(13) All balances on the treasurer's book not belonging to the county and awaiting clearance shall be remitted on or before December 31, or promptly thereafter, as of December 31; and

(14) Municipal fund revenue shall be remitted to the municipality by separate check for each appropriate dedicated municipal fund.

History. Acts 1973, No. 173, § 15; A.S.A. 1947, § 17-1815; Acts 2009, No. 287, § 8; 2011, No. 614, § 10; 2019, No. 132, § 1.

Amendments. The 2019 amendment added (b)(14).

Subchapter 2 — Community Sewer System Management

SECTION.

14-25-201. Responsible management entities — Wastewater treatment systems.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

14-25-201. Responsible management entities — Wastewater treatment systems.

(a) As used in this section, "responsible management entity" means a wastewater treatment system service provider organized and operating under this section.

(b) A nonprofit corporation formed for the purpose of providing responsible management of wastewater treatment systems where mu-

nicipal sewer service is not available shall operate in accordance with § 14-250-113 and have the powers set forth in § 14-250-111.

(c) Any of the following may enter into an agreement to become a responsible management entity for the purpose of providing responsible management of wastewater treatment systems, including community sewer systems and groups of septic systems in a contiguous development where municipal sewer service is not available:

(1) A political subdivision of the state;

(2) A district or an authority formed under the Joint County and Municipal Solid Waste Disposal Act, § 14-233-101 et seq., or § 8-6-723;

(3) A nonprofit corporation formed for the purpose of providing responsible management of wastewater treatment systems; or

(4) A rural water association.

(d)(1) Any installation, operation, or maintenance performed on a wastewater treatment system on behalf of a responsible management entity shall be done in compliance with the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., and the rules of the Arkansas Pollution Control and Ecology Commission as administered by the Division of Environmental Quality or its successor and the Department of Health or its successor.

(2) A responsible management entity must also ensure that all appropriate operator licenses are current and any continuing education requirements are fulfilled.

(e)(1) A developer constructing a new wastewater treatment system where municipal sewer service is not available may transfer all liabilities for the wastewater treatment system to a responsible management entity if:

(A) Before the construction of a wastewater treatment system begins, the developer secures written approval of the proposed wastewater treatment system from the Department of Health and complies with all applicable permitting requirements, including stormwater, through the Division of Environmental Quality pursuant to the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., and the rules of the Arkansas Pollution Control and Ecology Commission;

(B) Covenants are contained in the deed for the wastewater treatment system requiring payment of reasonable fees by the purchaser to the responsible management entity for ongoing operations and maintenance of the system; and

(C) Ownership of the wastewater treatment system is transferred to the responsible management entity upon completion.

(2) Under no circumstances shall the liability for fraud or negligence on the part of the developer be transferred.

History. Acts 2007, No. 844, § 1; 2019, No. 315, §§ 990, 991; 2019, No. 910, §§ 3030, 3031.

Amendments. The 2019 amendment by No. 315 substituted "rules" for "regulations" in (d)(1) and (e)(1)(A).

The 2019 amendment by No. 910 substituted "Division of Environmental Qual-

ity" for "Arkansas Department of Environmental Quality" in (d)(1) and (e)(1)(A).

CHAPTER 26

WORKERS' COMPENSATION

SECTION.

14-26-104. Coverage through private carrier or self-funding.

14-26-104. Coverage through private carrier or self-funding.

(a) Counties may provide workers' compensation coverage either through private carriers or through one (1) or more self-funding groups.

(b) Self-funding groups established for this purpose shall meet the following requirements:

(1) Any self-funding group established to provide coverage to counties only shall offer coverage to any county in the state that applies for coverage;

(2) Any self-funding group established to provide coverage for both municipalities and counties shall offer coverage to any municipality or county in the state desiring to participate;

(3) Any group established to provide workers' compensation coverage to counties or to counties and municipalities shall offer the coverage at rates as established and filed with the Workers' Compensation Commission by the organization establishing the self-funding group, and rates for counties participating in any self-funding group shall be revised annually based on the cost experience of the particular county, group of counties, or group of municipalities and counties;

(4)(A) Any self-funding group of participating municipalities or counties that is governed by a board of trustees of elected municipal or county officials shall be subject to the rules of the Workers' Compensation Commission applicable to self-insured groups or providers.

(B) However, cities and counties shall not be required to enter into an indemnity agreement binding them jointly and severally.

(C) Each board governing a self-funded group shall be permitted to declare dividends or give credits against renewal premiums based on annual loss experience.

(D) All self-funded groups shall obtain excess reinsurance from an admitted or approved insurance company doing business in Arkansas; and

(5) However, in lieu of the reinsurance requirements in subdivision (b)(4)(D) of this section, any self-funded group under this section with one million five hundred thousand dollars ($1,500,000) or more in annually collected premiums may provide excess reserves of twenty percent (20%) of annual premiums by any one (1) of the following ways:

(A) Cash or certificates of deposit in Arkansas banks;

(B) Letters of credit from an Arkansas bank; or

(C) The purchase of reinsurance from the NLC Mutual Insurance Company or County Reinsurance, Limited, a national reinsurance facility for county governments.

History. Acts 1985, No. 866, § 2; 1985 (1st Ex. Sess.), No. 34, § 1; 1985 (1st Ex. Sess.), No. 43, § 1; A.S.A. 1947, § 81-1365; Acts 1987, No. 206, § 1; 1999, No. 583, § 1; 2019, No. 315, § 992.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (b)(4)(A).

CHAPTER 27

COUNTY INTERGOVERNMENTAL COOPERATION COUNCILS

SECTION.
14-27-103. Meetings — Notice.

14-27-103. Meetings — Notice.

(a) A county intergovernmental cooperation council shall meet at least one (1) time annually.

(b) Meetings of the council shall be open to the public and held in a public meeting room.

(c) Meetings of the council shall be at the call of the chair unless a majority of the council's membership petition for a meeting to be held.

(d) The secretary of the council shall notify the public and the press of council meetings at least three (3) days before the meetings.

History. Acts 1987, No. 510, § 3; 2001, No. 784, § 1; 2019, No. 291, § 1.

Amendments. The 2019 amendment substituted "at least three (3) days before the meetings" for "no later than ten (10) days prior to the date of such meetings" in (d); and made stylistic changes.

SUBTITLE 3. MUNICIPAL GOVERNMENT

CHAPTER 37

CLASSIFICATION OF CITIES AND TOWNS

SECTION.
14-37-109. Appointment of enumerators to take census.
14-37-110. Return of enumerators.
14-37-111. Reduction of city to lower grade — In general.

14-37-109. Appointment of enumerators to take census.

(a)(1) If a city or incorporated town desires to be made a city of the first class or a city of the second class, or if it is deemed necessary to determine the number of inhabitants within the city or incorporated town for any purpose, on petition of ten (10) qualified voters of the city or incorporated town filed with the recorder of the city or incorporated

town, the city or town council shall consider the petition at its next regular meeting.

(2) If the city or town council deems the prayer of petitioners well founded and deems that a census of the city or incorporated town should be taken in accordance with the prayer of the petitioners, the city or town council may pass a resolution authorizing and directing the taking of a census of the city or incorporated town, and the mayor shall appoint enumerators to take the census, the appointees to be approved by the city or town council.

(b)(1) The resolution authorizing the taking of census shall prescribe the duties of the enumerators as to when and how to proceed.

(2)(A) Not more than one (1) enumerator shall be appointed for each ward.

(B) However, one (1) enumerator may take more than one (1) ward if the city or town council deems it proper.

History. Acts 1903, No. 46, § 1, p. 78; C. & M. Dig., § 7662; Pope's Dig., § 9784; A.S.A. 1947, § 19-212; Acts 2017, No. 879, § 3.

Amendments. The 2017 amendment rewrote the section.

14-37-110. Return of enumerators.

(a)(1) Before the enumerators shall enter upon their duties, they shall make and subscribe to an oath to well and faithfully perform their duties, and their return shall be taken as true.

(2)(A) However, the returns so made by the census enumerators shall be filed in the office of the mayor and shall be subject to examination of the public for thirty (30) days.

(B) Any correction of the returns may be made if proper proof is made before the city or town council to its satisfaction authorizing the correction sought to be made.

(b) The enumerators shall be entitled to and receive two and one-half cents (2 1/2¢) per name for all names found to be authentic by the city or town council, to be paid by the city or incorporated town.

History. Acts 1903, No. 46, §§ 2, 3, p. 78; C. & M. Dig., § 7663; Pope's Dig., § 9785; A.S.A. 1947, §§ 19-213, 19-214; Acts 2017, No. 878, § 1.

Amendments. The 2017 amendment, in (a)(2)(B), substituted "of the returns" for "thereof", and substituted "city or town council to its" for "board of aldermen to their"; and, in (b), substituted "city or town council" for "board of aldermen", and substituted "city or incorporated town" for "town or city".

14-37-111. Reduction of city to lower grade — In general.

(a) Whenever the last federal census shows that any city of the first class has fewer than two thousand five hundred (2,500) inhabitants and that any city of the second class has fewer than five hundred (500) inhabitants, the city may be reduced to a city of the second class or to an incorporated town, respectively, upon the adoption of a resolution by

the council of the municipal corporations requesting that the grade of the corporations be reduced.

(b)(1) The Board of Municipal Corporations, upon the receipt of a certified copy of the resolution, shall make an order reducing the grade of the municipal corporation.

(2) Upon being advised of the action of the board, the Governor shall cause a statement to be prepared and transmitted to the mayor of the city or town stating the grade to which it has been reduced.

(c) When the grade of a city has been reduced to city of the second class or to incorporated town, all officers of that city or town shall continue in office until the next general election for the city or town.

History. Acts 1931, No. 61, §§ 1, 2; Pope's Dig., §§ 9547, 9548; A.S.A. 1947, §§ 19-216, 19-217; Acts 2017, No. 260, § 4.

Amendments. The 2017 amendment, in (c), deleted the former first sentence and substituted "When the grade of a city has been reduced to city of the second class or to incorporated town, all officers of that city or town" for "All other officers of a city whose grade may be reduced".

CHAPTER 38

INCORPORATION AND ORGANIZATION OF MUNICIPALITIES

SECTION.
14-38-101. Petition for incorporation.
14-38-113. [Repealed.]
14-38-115. Alternative method of incorporation — Petition and election.
14-38-116. Map required with Arkansas Geographic Information Systems Office upon incorporation or disincorporation.
14-38-117. Effective date of incorporation required.

Effective Dates. Acts 2017, No. 653, § 3: Mar. 27, 2017. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that an urgent need exists to clarify the official effective dates of municipal boundary actions, to aid the United States Bureau of the Census in the bureau's decennial census counts, and to maintain more accurate records regarding municipal boundary changes; and that this act is immediately necessary to clarify the effective dates of municipal boundary changes. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety, shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-38-101. Petition for incorporation.

(a)(1) When the inhabitants of a part of any county not embraced within the limits of any city or incorporated town shall desire to be

organized into a city or incorporated town, they may apply, by a petition in writing, signed by the greater of either two hundred (200) or a majority of the qualified voters residing within the described territory, to the county court of the proper county.

(2) The petition shall:

(A) Describe the territory proposed to be embraced in the incorporated town and have annexed to it an accurate map or plat of the territory;

(B) State the name proposed for the incorporated town; and

(C) Name the persons authorized to act in behalf of the petitioners in prosecuting the petition.

(b)(1) Unless the governing body of the municipal corporation has affirmatively consented to the incorporation by written resolution or the area that seeks to be incorporated contains a population of one thousand five hundred (1,500) or more, the court shall not approve the incorporation of a municipality if any portion of the territory proposed to be embraced in the incorporated town lies within:

(A) Three (3) miles of an existing municipal corporation; or

(B) The area in which that existing municipal corporation is exercising its planning territorial jurisdiction.

(2) The planning territorial jurisdiction limitation shall not apply if the area proposed to be incorporated is land upon which a real estate development by a single developer, containing not less than four thousand (4,000) acres, has been or is being developed under a comprehensive plan for a community containing streets and other public services, parks, and other recreational facilities for common use by the residents of the community, churches, schools, and commercial and residential facilities, and which has been subdivided into sufficient lots for residential use to accommodate a projected population of not fewer than one thousand (1,000) persons, and for which a statement of record has been filed with the United States Secretary of Housing and Urban Development under the Interstate Land Sales Full Disclosure Act.

(c) When any petition shall be presented to the court, it shall be filed in the office of the county clerk, to be kept there, subject to the inspection of any persons interested, until the time appointed for the hearing of it.

(d)(1) At or before the time of the filing, the court shall fix and communicate to the petitioners, or their agent, a time and place for the hearing of the petition, which time shall not be less than thirty (30) days after the filing of the petition.

(2)(A)(i) Thereupon, the petitioners or their agent shall cause a notice to be published in some newspaper of general circulation in the county for not less than three (3) consecutive weeks.

(ii) If there is no newspaper of general circulation in the county, a notice shall be posted at some public place within the limits of the proposed incorporated town for at least three (3) weeks before the time of the hearing.

(B) The notice shall contain the substance of the petition and state the time and place appointed for the hearing.

History. Acts 1875, No. 1, § 35, p. 1; C. & M. Dig., § 7664; Pope's Dig., § 9786; Acts 1975, No. 635, § 1; 1979, No. 606, § 1; 1983, No. 439, § 1; A.S.A. 1947, § 19-101; Acts 2001, No. 1233, §§ 1, 2; 2001, No. 1831, § 1; 2007, No. 118, § 1; 2017, No. 1055, § 1; 2019, No. 932, § 1.

Amendments. The 2017 amendment redesignated former (b)(1) as (b)(1), (b)(1)(A), and (b)(1)(B)(i); in the introductory language of (b)(1), substituted "a" for "any" and "lies within" for "shall lie within"; in (b)(1)(A), substituted "Three (3)" for "five (5)" and "or" for "and within the"; inserted "The" in (b)(1)(B)(i); and added (b)(1)(B)(ii).

The 2019 amendment substituted "Unless the governing body of the municipal corporation has affirmatively consented to the incorporation by written resolution or the area that seeks to be incorporated contains a population of one thousand five hundred (1,500) or more, the court" for "The court" in the introductory language of (b)(1); deleted the (b)(1)(B)(i) designation; deleted "unless the governing body of the municipal corporation has affirmatively consented to the incorporation by written resolution" following "jurisdiction" in (b)(1)(B); deleted (b)(1)(B)(ii); and made stylistic changes.

14-38-113. [Repealed.]

Publisher's Notes. This section, concerning reorganization under different form of government, was repealed by Acts 2019, No. 105, § 1, effective July 24, 2019. The section was derived from Acts 1965, No. 497, § 1-3; 1975, No. 6, § 1; 1980 (1st Ex. Sess.), No. 21, § 1; 1980 (1st Ex. Sess.), No. 70, § 1; A.S.A. 1947, §§ 19-110, 19-111, 19-111n; Acts 2005, No. 2145, § 21; 2007, No. 1049, § 39; 2009, No. 1480, §§ 56, 57; 2017, No. 878, § 2.

14-38-115. Alternative method of incorporation — Petition and election.

(a)(1) In addition to the procedures for incorporating a city or town under §§ 14-38-101 — 14-38-108, the inhabitants of a part of any county not embraced within the limits of any city or incorporated town may apply to the county judge of the proper county to call for an election on the issue of incorporating a city or town and for electing municipal officials if the following conditions are met:

(A) The territory proposed to be incorporated has at least one thousand five hundred (1,500) inhabitants according to the most recent federal decennial census; and

(B) The county judge is presented a written petition that:

(i) Meets the requirements of subdivision (a)(2) of this section; and

(ii) Is signed by at least twenty-five percent (25%) of the qualified voters who reside in the territory proposed to be incorporated.

(2) The petition shall:

(A) Describe the territory proposed to be embraced in the incorporated city or town and have attached to it an accurate map or plat of the territory;

(B) State the name proposed for the incorporated city or town; and

(C) Name the persons authorized to act in behalf of the petitioners in prosecuting the petition.

(b) The county judge shall not approve a petition for incorporation of any city or town if any portion of the territory proposed to be incorporated is ineligible under the criteria in § 14-38-101(b).

(c) If a petition for incorporation is presented to the county judge, it shall be filed in the office of the county clerk to be kept there, subject to the inspection of any persons interested, until the time appointed for a public hearing on the petition.

(d)(1) Upon the filing of a petition for incorporation, the county judge shall set the time for a public hearing on the petition and shall communicate to the petitioners or their agent a time and place for the hearing that shall be not less than thirty (30) days after the filing of the petition.

(2)(A) The petitioners or their agent shall publish a notice in some newspaper of general circulation in the county for not less than three (3) consecutive weeks.

(B) The notice shall contain the substance of the petition and state the time and place set for the public hearing.

(e) The county judge shall hold the public hearing at the time and place determined, and the procedure for a hearing set forth in § 14-38-103 shall be followed in the proceedings concerned in this section to the extent applicable.

(f)(1) After the hearing, if the county judge is satisfied that the procedures for filing the petition for incorporation were followed, that the requirements for signatures under subsection (a) of this section have been met, that the limits of the territory to be incorporated have been accurately described and an accurate map was made and filed, and if the prayer of the petitioner is right and proper, then the county judge shall enter an order that:

(A) Grants the petition to hold an election on the date of the next election; and

(B) Sets the date of the next election as the date of the election on the issue of incorporating the city or town and electing officers.

(2) The order shall be recorded by the clerk of the county.

(g)(1)(A) If the county judge orders an election on the issue of incorporation, the county clerk shall notify the county election commission at least sixty (60) days before the election that the issue of incorporation shall also appear on the election ballot for a proposed city or incorporated town.

(B)(i) No later than forty-five (45) days prior to the election, the county clerk shall identify all persons who reside within the territory proposed to be incorporated, and the county clerk shall determine the names and addresses of all qualified electors residing within that territory.

(ii) The failure to identify all persons residing within the territory proposed to be incorporated or the failure to determine the names and addresses of all qualified electors residing within that territory shall not invalidate or otherwise affect the results of the election.

(C) All qualified electors residing within the territory to be incorporated shall be entitled to vote on the issue of incorporation.

(D) The county clerk shall give notice of the election by publication by at least one (1) insertion in some newspaper having a general circulation in the county.

(2)(A) The county clerk shall prepare a list by precinct of all those qualified electors residing within the territory to be incorporated who are qualified to vote in that precinct and furnish that list to the election officials.

(B) The county clerk shall give notice of the voter registration deadlines at least forty (40) days before the election by ordinary mail to those persons whose names and addresses are on the list.

(3) The election on the issue of incorporation shall be held in accordance with the procedures established for other municipal elections, and the ballot for the election shall be printed substantially as follows:

"[ ] FOR THE INCORPORATION OF THE CITY (OR TOWN) OF (NAME OF PROPOSED CITY OR INCORPORATED TOWN), ARKANSAS.

[ ] AGAINST THE INCORPORATION OF THE CITY (OR TOWN) OF (NAME OF PROPOSED CITY OR INCORPORATED TOWN), ARKANSAS."

(4) No later than seven (7) days following the election, the county clerk shall:

(A) Certify the election results;

(B) Record the election results in the county records; and

(C) File a certified copy with the county judge.

(h)(1)(A) If a majority of the qualified electors voting on the issue of incorporation in the election vote for the issue, then the county clerk shall no later than seven (7) days following the election:

(i) Certify the election results;

(ii) Record the election results in the county records; and

(iii) File a certified copy with the Secretary of State.

(B) Upon the county clerk's filing of the election results, the county judge shall:

(i) Approve the petition of incorporation as ratified by the voters; and

(ii) Endorse on the petition an order that the city or incorporated town as named and described in the petition is organized and that the petition shall be granted.

(C)(i) The order, petition, and map or plat shall be signed and delivered to the county recorder to record them in the proper records and to file and preserve in his or her office the original papers, having certified on the papers that they have been properly recorded.

(ii)*(a)* It shall also be the duty of the recorder to make out and certify, under his or her official seal, two (2) transcripts of the record.

(b) The recorder shall forward one (1) copy to the Secretary of State and deliver one (1) copy to the agent of the petitioners, with a certificate on the transcript that a similar transcript has been forwarded to the Secretary of State.

(D)(i) The incorporation shall be effective on the date the order of the county judge is filed and recorded.

(ii) The election of municipal officers shall be effective upon that date.

(2) If a majority of the qualified electors voting on the issue at the election vote against the issue of incorporation, the incorporation petition is null and void.

(i)(1) If an order of the county judge provides for an election on the issue of incorporation, then the election of officers for the proposed city or town is to take place at the same time as the election on the issue of incorporation at the next general election.

(2) The county clerk shall notify the county election commission at least sixty (60) days before the election that the election of city or town officers shall also appear on the election ballot along with the issue of incorporation of the proposed city or incorporated town.

(3)(A) The county election commission is responsible for holding the first election of officers for the proposed city or town.

(B) The type of officers to be elected and qualified and the election itself shall be conducted in the manner prescribed by law in like cases for a city or town of like size or class.

(4) If the election is held at any other time than that prescribed by law for the regular election of the officers of the city or town of like size or class, the officers elected shall continue in office as long as and in the same manner as if they had been elected at the preceding period of the regular election of officers of the city or town of same size or class.

History. Acts 2005, No. 1237, § 1; 2019, No. 932, §§ 2, 3.

Amendments. The 2019 amendment substituted "one thousand five hundred (1,500) inhabitants" for "four thousand (4,000) inhabitants" in (a)(1)(A); and deleted "general" preceding "election" in (f)(1)(A) and (f)(1)(B).

14-38-116. Map required with Arkansas Geographic Information Systems Office upon incorporation or disincorporation.

Before an entity undertakes an incorporation or disincorporation proceeding under this chapter, the entity shall coordinate with the Arkansas Geographic Information Systems Office for preparation of legal descriptions and digital mapping for the relevant incorporated or unincorporated areas.

History. Acts 2015, No. 914, § 1.

14-38-117. Effective date of incorporation required.

(a)(1) The county court order of incorporation affecting territory under this chapter shall include the effective date upon which the petition for incorporation is granted and the municipality is considered organized.

(2) County court orders that fail to include a specified effective date in the order shall require using the date of the county clerk's file mark as the effective date for all purposes.

(b) The effective date specified in the order of incorporation issued under § 14-38-104 is the official effective date to be used by any county or state official charged with recording, forwarding, maintaining, or instituting the order of incorporation.

(c)(1) In the event of a circuit court challenge to the county court order of incorporation, the final order of the circuit court shall specify a change to the effective date, if any.

(2) In the absence of a specific attestation, the county court-ordered effective date is the effective date.

History. Acts 2017, No. 653, § 1.

CHAPTER 39

SURRENDER OF CHARTER BY CITY OF THE SECOND CLASS OR INCORPORATED TOWN

SECTION.
14-39-101. Authority generally.

SECTION.
14-39-102. Revocation due to inactivity.

Effective Dates. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 128: July 1, 2016.

Acts 2017, No. 655, § 5: Mar. 27, 2017. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that municipal boundary changes shall be effective by December 31, 2017, and shall be reported to the United States Bureau of the Census by May 31, 2018, to be assured of inclusion in the 2020 Federal Decennial Census; that there is a need for counties and municipalities to give timely, complete, and accurate written notice to the Secretary of State of municipal boundary changes to ensure an accurate census; and that any modification to statutes after December 31, 2018, would be ineffective in ensuring an accurate census in 2020. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-39-101. Authority generally.

(a) The charters, and all the amendments thereto, of all municipal corporations within this state designated as cities of the second class and incorporated towns may be surrendered, all offices held thereunto abolished, and the territory and inhabitants thereof remanded to the government of this state in the manner provided in this chapter.

(b) Before a municipal corporation undertakes a surrender of charter under this chapter, the municipal corporation shall coordinate with the Arkansas Geographic Information Systems Office for preparation of legal descriptions and digital mapping of the relevant territory.

History. Acts 1883, No. 22, § 1, p. 33; C. & M. Dig., § 7638; Pope's Dig., § 9760; A.S.A. 1947, § 19-501; Acts 2017, No. 655, § 1.

Amendments. The 2017 amendment added (b).

14-39-102. Revocation due to inactivity.

(a)(1) The charter of any incorporated town or city of the second class that has been inactive as an incorporated place for five (5) years or longer shall be revoked by order of the county court of the county in which the incorporated town or city of the second class is located.

(2) Upon petition by the prosecuting attorney of the county, the county court of the county may make and enter an order revoking any charter of an incorporated town or city of the second class upon a finding that the town or city will no longer be in existence.

(b) When the county court revokes the charter of any incorporated town or city of the second class, the court shall order the clerk of the court to make out and certify under the official seal of the clerk, a transcript of the order, which the clerk shall forward to the Secretary of State, to be kept on file in the office of the Secretary of State. The clerk shall also forward a copy to the Arkansas State Archives.

History. Acts 1883, No. 22, § 2, p. 33; C. & M. Dig., §§ 7639-7642; Pope's Dig., §§ 9761-9764; Acts 1957, No. 224, § 1; 1983, No. 185, § 1; A.S.A. 1947, § 19-502; Acts 2016 (3rd Ex. Sess.), No. 2, § 122; 2016 (3rd Ex. Sess.), No. 3, § 122.

A.C.R.C. Notes. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 1, provided:

"(a) The General Assembly finds:

"(1) State government provides vital functions that impact the lives of Arkansas citizens on a daily basis;

"(2) While these functions are important, it is equally important to ensure that state government operates efficiently and effectively to eliminate unnecessary spending of tax dollars and provide timely and quality services to Arkansas citizens; and

"(3) Issues such as the administrative organization of a governmental entity, the appointment structure of a governmental entity's governing board, and extraneous duties assigned to governmental entities hamper the operation of state government and result in unnecessary expenses and delays in the provision of state services.

"(b) It is the intent of this act to amend provisions of law applicable to certain agencies, task forces, committees, and commission to promote efficiency and effectiveness in the operations of state government as a whole."

Amendments. The 2016 (3rd Ex. Sess.) amendment by identical acts Nos. 2 and 3 substituted "State Archives" for "History Commission" in (b).

CHAPTER 40

ANNEXATION, CONSOLIDATION, AND DETACHMENT BY MUNICIPALITIES

SUBCHAPTER.

1. General Provisions.
2. Annexation Generally.
3. Municipal Annexation of Contiguous Lands.
5. Annexation of Surrounded Land.
6. Annexation Proceedings by Adjoining Landowners.
12. Consolidation of Municipalities.
20. Municipal Services.

Subchapter 1 — General Provisions

SECTION.

14-40-101. Map required with Arkansas Geographic Information Systems Office upon annexation, consolidation, or detachment.
14-40-102. Effective date of annexation, consolidation, or detachment required.
14-40-103. Notice to Secretary of State upon municipal boundary change — Definitions.

Effective Dates. Acts 2017, No. 653, § 3: Mar. 27, 2017. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that an urgent need exists to clarify the official effective dates of municipal boundary actions, to aid the United States Bureau of the Census in the bureau's decennial census counts, and to maintain more accurate records regarding municipal boundary changes; and that this act is immediately necessary to clarify the effective dates of municipal boundary changes. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety, shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2017, No. 655, § 5: Mar. 27, 2017. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that municipal boundary changes shall be effective by December 31, 2017, and shall be reported to the United States Bureau of the Census by May 31, 2018, to be assured of inclusion in the 2020 Federal Decennial Census; that there is a need for counties and municipalities to give timely, complete, and accurate written notice to the Secretary of State of municipal boundary changes to ensure an accurate census; and that any modification to statutes after December 31, 2018, would be ineffective in ensuring an accurate census in 2020. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-40-101. Map required with Arkansas Geographic Information Systems Office upon annexation, consolidation, or detachment.

Before an entity undertakes an annexation, consolidation, or detachment proceeding under this chapter, the entity shall coordinate with the Arkansas Geographic Information Systems Office for preparation of legal descriptions and digital mapping for the relevant annexation, consolidation, and detachment areas.

History. Acts 2015, No. 914, § 2.

CASE NOTES

Compliance.

City complied with the statutory requirements for annexation of an enclave where the passage of the annexation ordinance was merely preparation for "undertaking annexation", and therefore the city contacted the Arkansas Geographic Information Systems Office (GIS) before it "undertook" the annexation, as required by this section. Even if the ordinance amounted to "undertaking" the annexation, the ordinance did nothing and was invalid before its post-enactment publication. Thus, the city's contacting GIS within 48 hours of the ordinance's passage was in accordance with the statute. Houston v. City of Hot Springs, 2018 Ark. App. 196, 546 S.W.3d 545 (2018).

14-40-102. Effective date of annexation, consolidation, or detachment required.

(a)(1) An annexation, consolidation, or detachment action that affects territory under this chapter shall include in its ordinance or resolution the date upon which the annexation, consolidation, or detachment is considered final.

(2) An ordinance or resolution that fails to include a specified effective date shall use the date of the municipal clerk or municipal recorder file mark or attestation, whichever is later in time, as the effective date for all purposes.

(b)(1) The date specified in the ordinance or resolution is the official effective date of the annexation, consolidation, or detachment.

(2) An amendment to the ordinance or resolution shall carry its own effective date or modification of the effective date.

(3) An amendment that fails to include a specified effective date shall use the date of the municipal clerk or municipal recorder file mark or attestation, whichever is later in time, as the effective date of the amendment for all purposes.

(c)(1) If a municipality initiates an annexation, consolidation, or detachment action under § 14-40-204 or § 14-40-501, the effective date shall be specified.

(2) An ordinance or resolution that fails to include a specified effective date shall use the date of the municipal clerk or municipal recorder file mark or attestation, whichever is later in time, as the effective date for all purposes.

(d) The effective date specified in an ordinance or resolution issued under this chapter is the official effective date to be used by any county

or state official charged with recording, forwarding, maintaining, or instituting the ordinance or resolution.

(e)(1) In the event of a circuit court challenge to a county court order approving a municipal boundary change under this chapter, the final order of the circuit court shall specify a change to the effective date, if any.

(2) In the absence of a specific attestation, the municipally designated effective date is the effective date.

History. Acts 2017, No. 653, § 2.

14-40-103. Notice to Secretary of State upon municipal boundary change — Definitions.

(a) As used in this section:

(1)(A) "Municipal boundary change" means an incorporation, annexation, consolidation, detachment, surrender of charter, revocation of charter, or municipal disincorporation under this subchapter, § 14-38-101 et seq., or § 14-39-101 et seq.

(B) "Municipal boundary change" includes court orders, amendments, and judicial corrections of boundaries or property descriptions; and

(2) "Municipality" means a city of the first class, a city of the second class, or an incorporated town.

(b)(1) Within forty-five (45) days of the effective date of any ordinance or resolution effecting a municipal boundary change under this subchapter, § 14-38-101 et seq., or § 14-39-101 et seq., the city clerk shall provide written notice, along with complete documentation, to the county clerk of each county in which the territory is affected.

(2) Within thirty (30) days of receipt from a municipality, each respective county clerk shall provide written notice to the Secretary of State of filings and records related to the municipal boundary change as required by statute or by the Secretary of State, to be kept by the county clerk, and shall provide those records with notice delivered to the Secretary of State.

(3)(A) Within fourteen (14) days of receipt of a summons, complaint, circuit court order, or court judgment concerning a municipal boundary change, each municipality shall notify in writing the Secretary of State and the respective county clerk of each county in which the territory is or may be affected.

(B) Upon receipt of notice of a court challenge, the county clerk shall provide written notice to the Secretary of State of a summons, complaint, circuit court order, or court judgment that may affect a municipal boundary change.

(c) Absent notice of a court challenge, within thirty (30) days of receipt of a notice of a municipal boundary change, the Secretary of State shall forward appropriate notice and a copy of the appropriate records to the:

(1) Arkansas Geographic Information Systems Office;

(2) Tax Division of the Arkansas Public Service Commission;
(3) Arkansas Department of Transportation; and
(4) Department of Finance and Administration.

(d) Within thirty (30) days of receipt of notice of a municipal boundary change from the Secretary of State, the Arkansas Geographic Information Systems Office shall provide notice and the appropriate electronic records to the:

(1) Tax Division of the Arkansas Public Service Commission;
(2) Arkansas Department of Transportation; and
(3) Department of Finance and Administration.

(e) Within thirty (30) days of receipt of notice from the Arkansas Geographic Information Systems Office or the Secretary of State of a municipal boundary change, the Arkansas Public Service Commission shall file and preserve the appropriate records and shall notify the entities under the jurisdiction of the Arkansas Public Service Commission that have property in the municipality of the annexation.

(f) The Secretary of State may prescribe documents for providing appropriate notice and may prescribe a mandatory form for providing sufficient notice.

History. Acts 2017, No. 655, § 2; 2019, No. 383, § 6.

Amendments. The 2019 amendment substituted "Municipality" for "Municipal corporation" in (a)(2); and substituted "jurisdiction of the Arkansas Public Service Commission" for "commission's jurisdiction" in (e).

Subchapter 2 — Annexation Generally

SECTION.
14-40-204. Annexation of city-owned parks and airports.
14-40-205. Territory within one-half mile of state park.
14-40-207. Building situated or to be situated upon municipal boundary line — Option to choose municipal location.
14-40-208. Annexation of territory under municipal territorial jurisdiction.

Effective Dates. Acts 2015, No. 826, § 2: Mar. 29, 2015. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there are some property owners in Arkansas with property that crosses the boundary of two (2) municipalities; that the physical location of a building on the property is sometimes on the boundary line, causing sales tax and other issues for the property owners; and that this act is immediately necessary to ensure that there is clarity to the property owner and to the municipalities as to which municipality is the legal location of the property. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-40-204. Annexation of city-owned parks and airports.

(a)(1) From and after the passage of this subsection, all city-owned parks and city-owned airports in cities of populations between forty thousand (40,000) and eighty thousand (80,000) in counties whose population is one hundred forty thousand (140,000) or over are annexed to the cities owning the parks and airports.

(2) This subsection shall apply to other cities and counties in the future meeting the population requirements, as shown by the federal census.

(b) All city-owned parks owned by cities in this state having a population of not less than six thousand (6,000) and not more than six thousand four hundred fifty (6,450) and located in counties having a population of not less than twenty-two thousand six hundred (22,600) and not more than twenty-two thousand eight hundred (22,800), according to the most recent federal census, are annexed to the cities owning the parks.

(c) All city-owned parks with a minimum of thirty (30) acres and owned by cities in this state having a population of not less than fifteen thousand (15,000) and not more than eighteen thousand (18,000) and located in counties having a population of not less than two hundred twenty thousand (220,000) and not more than two hundred sixty thousand (260,000), according to the most recent federal decennial census, are annexed to the cities owning the parks.

History. Acts 1951, No. 295, § 1; 1959, No. 49, § 1; A.S.A. 1947, §§ 19-323, 19-324; Acts 2017, No. 192, § 1.

Amendments. The 2017 amendment added (c).

14-40-205. Territory within one-half mile of state park.

(a) The annexation laws of this state do not apply in the area within one-half mile of the boundaries of a state park located in a county with a population in excess of three hundred fifty thousand (350,000) unless:

(1) The annexation is approved by a majority of the voters residing within the one-half-mile area;

(2) The area to be annexed is on the opposite side of a navigable river from the state park;

(3) The area to be annexed is on the opposite side of and south of an existing railroad right-of-way from the state park; or

(4) The area to be annexed contains a public or private school.

(b)(1) An order of the county court issued in contradiction of this section is void if the order is issued after August 1, 1997.

(2) A county court order issued after August 1, 1997, annexing an area on the opposite side of and south of an existing railroad right-of-way from a state park is valid and not void.

History. Acts 1997, No. 1216, § 1; 1999, No. 1495, § 1; 2017, No. 536, § 1.

Amendments. The 2017 amendment redesignated former (a) as the introductory language of (a) and (a)(1) through (a)(3); in the introductory language of (a),

substituted "The annexation laws of this state do not apply" for "None of the annexation laws of this state shall have any application" and "a state park" for "any state park", and deleted "persons" following "(350,000)"; substituted "the one-half mile" for "such one-half mile" in (a)(1); added (a)(4); in (b)(2), substituted "A county court order issued" for "However, if any county court order was issued" and "is valid and not void" for "then the county court order is declared valid and not void" at the end; and made stylistic changes.

14-40-207. Building situated or to be situated upon municipal boundary line — Option to choose municipal location.

(a)(1) A property owner who has a building that is currently situated upon the boundary line between two (2) municipalities may choose either one (1) of the municipalities as the legal location of the building.

(2) When the expansion of a building will result in the expansion's being situated upon the boundary line between two (2) municipalities, the property owner of the building may choose either one (1) of the municipalities as the legal location of the building if the property owner has first obtained the necessary authorizations or permits for expansion of the building from the municipality upon which the building is located before the expansion or from the municipality upon which the building expansion will be located.

(b)(1) The property owner shall provide written notice to the governing body of both municipalities as to which municipality is chosen under subsection (a) of this section.

(2) The written notice to the chosen municipality shall include a request for annexation into the chosen municipality.

(c) The property upon which the building is situated or will be situated after expansion and up to two (2) acres of the property owner's property surrounding the building and expansion shall be annexed into the municipality chosen by the owner under subsection (a) of this section.

(d) Within sixty (60) days of receipt of the written notice under subsection (b) of this section, the municipality chosen by the owner under subsection (a) of this section shall coordinate with the Arkansas Geographic Information Systems Office for preparation of legal descriptions and digital mapping for the relevant area.

History. Acts 2015, No. 826, § 1.

14-40-208. Annexation of territory under municipal territorial jurisdiction.

(a) If a municipality states its intent by resolution or ordinance to annex a specifically defined territory or portion of the territory over which it is exercising territorial jurisdiction under § 14-56-413, the municipality shall initiate annexation proceedings within five (5) years of the stated intent.

(b)(1) During the five (5) years under subsection (a) of this section, the municipality may continue to exercise its territorial jurisdiction

under § 14-56-413, including the defined territory specified within its intent to annex.

(2) If the municipality does not initiate annexation proceedings of the territory specified within its intent to annex within five (5) years of the effective date of the resolution or ordinance under subsection (a) of this section, the municipality is prohibited from again exercising territorial jurisdiction over the territory specified within its intent to annex for the next five (5) years.

History. Acts 2015, No. 845, § 1.

Subchapter 3 — Municipal Annexation of Contiguous Lands

SECTION.

14-40-303. Annexation ordinance — Election — Procedures.

14-40-303. Annexation ordinance — Election — Procedures.

(a) The annexation ordinance shall:

(1) Contain an accurate description of the lands desired to be annexed;

(2) Include a schedule of the services of the annexing municipality that will be extended to the area within three (3) years after the date the annexation becomes final;

(3) Fix the date for the annexation election under this section; and

(4) Be heard at three (3) consecutive regular meetings of the governing body of the annexing municipality.

(b)(1) The annexation ordinance shall not become effective until the question of annexation is submitted to the qualified electors of the annexing municipality and of the area to be annexed at the next general election or at a special election. The special election shall be called by ordinance or proclamation of the mayor of the annexing municipality in accordance with § 7-11-201 et seq.

(2)(A) If a majority of the qualified electors voting in the election vote for the annexation, no later than fifteen (15) days following the election, the county clerk shall certify the election results and record the same, along with the description and a map of the annexed area, in the county records, and file a certified copy thereof with the Secretary of State.

(B) The annexation shall be effective, and the lands annexed shall be included within the corporate limits of the annexing municipality thirty (30) days following the date of recording and filing of the description and map, as provided in this section, or in the event an action is filed with the circuit court as provided in § 14-40-304, on the date the judgment of the court becomes final.

(3) If a majority of the qualified electors voting on the issue at the election vote against the annexation, the annexation ordinance shall be null and void.

(c)(1)(A) The city clerk shall certify two (2) copies of the annexation ordinance and a plat or map of the area to be annexed and convey one (1) copy to the county clerk and one (1) copy to the county election commission at least sixty (60) days before the election.

(B)(i) No later than forty-five (45) days prior to the election, the city shall identify all persons who reside within the area proposed to be annexed, and the county clerk shall assist the city in determining the names and addresses of all qualified electors residing within that area.

(ii) The failure to identify all persons residing within the area proposed to be annexed or the failure to determine the names and addresses of all qualified electors residing within that area shall not invalidate or otherwise affect the results of the election.

(C) All of the qualified electors residing within the territory to be annexed shall be entitled to vote in the election.

(D) The city clerk shall give notice of the election by publication by at least one (1) insertion in some newspaper having a general circulation in the city.

(2)(A) The county clerk shall give notice of the voter registration deadlines at least forty (40) days before the election by ordinary mail to those persons whose names and addresses are on the list provided by the city clerk.

(B) The county clerk shall prepare a list by precinct of all those qualified electors residing within the area to be annexed who are qualified to vote in that precinct and furnish that list to the election officials at the time the ballot boxes are delivered.

(3) If the county clerk or the county election commission shall fail to perform any duties required of it, then any interested party may apply for a writ of mandamus to require the performance of the duties. The failure of the county clerk or the county election commission to perform the duties shall not void the annexation election unless a court finds that the failure to perform the duties substantially prejudiced an interested party.

(d) If the annexation is approved and becomes final, as soon as practical after the annexation the governing body of the city shall attach and incorporate by ordinance the annexed territory to and in one (1) or more wards of the city lying adjacent thereto, and the territory so assigned and attached to a ward shall thereafter be considered and become a part thereof as fully as any other part of the city.

(e) From the map or plat provided by city ordinance of the wards assigned, the county clerk shall proceed to ascertain and determine the voters' proper precinct and shall enter the same upon the voter registration records of those inhabitants of the territory so annexed and give notice of that change within thirty (30) days after the adoption of the city ordinance assigning the territory to wards.

(f)(1) In the event that within thirty (30) days of the date that one (1) city calls for an annexation election, another city calls for an annexation election on all or part of the same land proposed to be annexed by the

first city, then both annexation elections shall be held, provided that the second city must call for its annexation election to be held on the next available date in accordance with § 7-11-201 et seq. before or after the holding of the first city's election.

(2)(A) If the annexation election held first is approved by the voters, the results of it shall be stayed until the second annexation election is held.

(B)(i) If only one (1) of the annexation elections is approved by the voters, then the city that called that election shall proceed with the annexation of the land.

(ii)*(a)* Except as provided in subdivisions (f)(2)(B)(ii)*(b)* and *(c)* of this section, if both annexation elections are approved by the voters, then a third election shall be held three (3) weeks after the second annexation election. The provisions of § 7-11-201 et seq., governing the procedures and dates on which special elections may be held shall not apply to the third annexation election provided in this subsection.

(b) If the date of the third election falls upon a legal holiday, the election shall be held four (4) weeks after the second annexation election.

(c) If the date of the election under subdivision (f)(2)(B)(ii)*(b)* of this section is a legal holiday, the election shall be held five (5) weeks after the second annexation election.

(iii) Notice of the third election shall be published in a newspaper circulated in the area to be annexed during the period following the second election.

(iv) Only the residents of the area proposed to be annexed by both cities shall vote in the third election.

(v) The issue on the ballot in the third election shall be into which of the two (2) cities the residents of the area want to be annexed.

(vi) The area shall be annexed into the city receiving the most votes in the third election.

(vii) In the event of a tie vote in the third election, the area shall be annexed to the city that had the highest percentage vote in favor of the annexation in the first or second election.

(3) If the city that does not get to annex the area voted on by both cities included land in its annexation election other than the land voted on by both cities, then that land shall be annexed into the city if it is still contiguous to the city after the other land is annexed to the other city, but the land shall remain part of the county if it is not so contiguous.

History. Acts 1971, No. 298, § 2; 1975, No. 309, § 2; A.S.A. 1947, § 19-307.2; Acts 1991, No. 725, § 1; 1993, No. 356, § 1; 1999, No. 639, § 1; 2005, No. 2145, § 22; 2007, No. 557, § 1; 2007, No. 1049, § 40; 2009, No. 420, § 1; 2009, No. 1480, §§ 58, 59; 2019, No. 219, § 1.

Amendments. The 2019 amendment substituted "annexation election under" for "election provided in" in (a)(3); and added (a)(4).

CASE NOTES

Cited: Pritchett v. City of Hot Springs, 2017 Ark. 95, 514 S.W.3d 447 (2017).

Subchapter 5 — Annexation of Surrounded Land

SECTION.
14-40-501. Authority — Exceptions.

14-40-501. Authority — Exceptions.

(a)(1)(A)(i) Whenever the incorporated limits of a municipality have completely surrounded an unincorporated area, the governing body of the municipality may propose an ordinance calling for the annexation of the land surrounded by the municipality.

(ii) Subdivision (a)(1)(A)(i) of this section includes situations in which the incorporated limits of a municipality have surrounded an unincorporated area on only three (3) sides because the fourth side is a boundary line with another state, a military base, a state park, a national forest, a lake, or a river.

(B) If the incorporated limits of two (2) or more municipalities have completely surrounded an unincorporated area, the governing body of the municipality with the greater distance of city limits adjoining the unincorporated area's perimeter may propose an ordinance calling for the annexation of the land surrounded by the municipalities, unless it is agreed by the adjoining municipalities that another of the adjoining municipalities should propose an ordinance calling for the annexation.

(2) The ordinance will provide a legal description of the land to be annexed and describe generally the services to be extended to the area to be annexed.

(b)(1) The unincorporated area to be annexed shall comply with the standards for lands qualifying for annexation which are set forth in § 14-40-302.

(2) Privately owned lakes exceeding six (6) acres of water surface which are used exclusively for recreational purposes and lands adjacent to them not exceeding twenty (20) acres in size which are used exclusively for recreational purposes in relation to the lake shall not qualify for annexation under the provisions of this subchapter.

History. Acts 1979, No. 314, § 1; A.S.A. 1947, § 19-337; Acts 2005, No. 1819, § 1; 2007, No. 150, § 1; 2013, No. 1243, § 1; 2015, No. 109, § 1.

Amendments. The 2015 amendment, in (a)(1)(A)(ii), substituted "section includes" for "section shall include" and "a national forest, a lake, or a river" for "or a national forest."

CASE NOTES

Analysis

Constitutionality.
Scope.

Constitutionality.

City could annex unincorporated areas by ordinance alone because (1) citizens have no constitutional right to vote on annexation, and (2) such annexation did not violate equal protection, as no fundamental right was at stake, and plaintiff did not claim that this section creates any suspect classifications or lacks a rational basis. Pritchett v. City of Hot Springs, 2017 Ark. 95, 514 S.W.3d 447 (2017).

Scope.

Subdivision (a)(1)(A)(ii) of this section, which contains the word "includes", provides an example of unincorporated areas that are "completely surrounded" by a municipality but does not exhaust the list of areas "completely surrounded" by a municipality. Pritchett v. City of Hot Springs, 2017 Ark. 95, 514 S.W.3d 447 (2017).

Citizen did not show annexed tracts were outside the procedure in this section due to being surrounded on two sides by a city and on two sides by a lake because the phrase "completely surrounded" in subdivision (a)(1)(A)(i) of this section was not intended to limit a tract that can be annexed to areas surrounded by a city; the phrase "completely surrounded" included the area at issue, which did not have four distinct sides and had no borders other than those with a single municipality and a lake. Pritchett v. City of Hot Springs, 2017 Ark. 95, 514 S.W.3d 447 (2017).

14-40-502. Hearing — Notice.

CASE NOTES

Hearing.

City's actions to comply with the maximum-occupant load at the board meeting did not violate this section where evidence was lacking that anyone who wished to speak was not allowed to do so. Houston v. City of Hot Springs, 2018 Ark. App. 196, 546 S.W.3d 545 (2018).

Residents' equal protection argument failed where the city held a public hearing as required by this section and allowed anyone to sign up to speak at that hearing. Houston v. City of Hot Springs, 2018 Ark. App. 196, 546 S.W.3d 545 (2018).

Subchapter 6 — Annexation Proceedings by Adjoining Landowners

SECTION.
14-40-605. Confirmation of annexation.
14-40-609. Annexation by 100% petition — Definition.

Effective Dates. Acts 2017, No. 655, § 5: Mar. 27, 2017. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that municipal boundary changes shall be effective by December 31, 2017, and shall be reported to the United States Bureau of the Census by May 31, 2018, to be assured of inclusion in the 2020 Federal Decennial Census; that there is a need for counties and municipalities to give timely, complete, and accurate written notice to the Secretary of State of municipal boundary changes to ensure an accurate census; and that any modification to statutes after December 31, 2018, would be ineffective in ensuring an accurate census in 2020. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The

date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-40-605. Confirmation of annexation.

(a) If no notice under § 14-40-604(b) is given within thirty (30) days from the making of the order of annexation by the county court, the proceeding before the court shall in all things be confirmed, if the city or incorporated town council shall accept by ordinance or resolution the territory.

(b)(1)(A) If the council accepts the territory and notifies the county clerk of each county in which territory is affected, the county clerk shall certify one (1) copy of the plat of the annexed territory and one (1) copy of the order of the court and the resolution or ordinance of the council.

(B) The county clerk shall forward a copy of each document to the Secretary of State, who shall file and preserve each copy.

(2) The county clerk shall forward a certified copy of the order of the court to the council.

History. Acts 1875, No. 1, § 82, p. 1; C. & M. Dig., § 7466; Pope's Dig., § 9499; Acts 1959, No. 212, § 1; 1961, No. 474, § 1; A.S.A. 1947, § 19-305; Acts 2017, No. 655, § 3.

Amendments. The 2017 amendment substituted "under § 14-40-604(b) is" for "shall be" in (a); redesignated former (b)(1) as (b)(1)(A) and (B); in (b)(1)(A), inserted "and notifies the county clerk of each county in which territory is affected" and deleted "duly" preceding "certify"; in (b)(1)(B), inserted "county", substituted "each copy" for "them", and deleted the last sentence; and inserted "county" in (b)(2).

14-40-609. Annexation by 100% petition — Definition.

(a) As used in this section, "city or town" means:

(1) A city of the first class;

(2) A city of the second class; and

(3) An incorporated town.

(b)(1) Individuals who own property in a county that is contiguous to a city or town may petition the governing body of the city or town to annex the property that is contiguous to the city or town.

(2) The petition under subdivision (b)(1) of this section shall:

(A) Be in writing;

(B) Contain an attestation signed before a notary or notaries by the property owner or owners of the relevant property or properties confirming the desire to be annexed;

(C) Contain an accurate description of the relevant property or properties;

(D) Contain a letter or title opinion from a certified abstractor or title company verifying that the petitioners are all owners of record of the relevant property or properties;

(E) Contain a letter or verification from a certified surveyor or engineer verifying that the relevant property or properties are contiguous with the annexing city or town and that no enclaves will be created if the property or properties are accepted by the city or town; and

(F) Include a schedule of services of the annexing city or town that will be extended to the area within three (3) years after the date the annexation becomes final.

(3) The petition shall be filed with the county assessor and the county clerk, and within fifteen (15) business days of the filing, the county assessor and the county clerk shall verify that the petition meets the requirements of subdivision (b)(2) of this section.

(c)(1) Upon completion of the requirements under subsection (b) of this section, the county clerk shall present the petition and records of the matter to the county judge who shall review the petition and records for accuracy.

(2) Within fifteen (15) days of the receipt of the petition and records, the county judge shall:

(A) Review the petition and records for completeness and accuracy;

(B) Determine that no enclaves will be created by the annexation;

(C) Confirm that the petition contains a schedule of services;

(D) Issue an order articulating the findings under subdivisions (c)(2)(A)-(C) of this section and forward the petition and order to the contiguous city or town; and

(E) Require at his or her discretion that the city or town annex dedicated public roads and rights of way abutting or traversing the property to be annexed.

(d)(1)(A) By ordinance or resolution, the city or town may grant the petition and accept the property for annexation to the city or town.

(B) The city or town is not required to grant the petition and accept the property petitioned to be annexed.

(2) The ordinance or resolution shall contain an accurate description of the property to be annexed.

(3)(A) If the governing body of the city or town accepts the contiguous property, the clerk or recorder of the city or town shall certify and send one (1) copy of the plat of the annexed property and one (1) copy of the ordinance or resolution of the governing body of the city or town to the county clerk.

(B)(i) The county clerk shall forward a copy of each document received under subdivision (d)(3)(A) of this section to the county judge.

(ii) If the county judge determines the requirements of this section have been complied with and the annexation is in all respects proper, the county judge shall enter an order confirming the annexation.

(e) Upon receipt of the order of the county judge confirming the annexation, the county clerk shall forward a copy of each document received under subdivision (d)(3) of this section to the Secretary of State, who shall file and preserve each copy.

(f)(1) Notwithstanding any other provisions in this chapter, thirty (30) days after passage of the ordinance or resolution by the governing body of the city of town under this section, the annexation shall be final and the property shall be within the corporate limits of the city or town.

(2) The inhabitants residing in the newly annexed property shall have and enjoy all the rights and privileges of the inhabitants within the original limits of the city or town.

(g)(1) During the thirty-day period under subdivision (f)(1) of this section, a cause of action may be filed in the circuit court of the county of the annexation by a person asserting and having an ownership right in the property objecting to the petition or by any person asserting a failure to comply with this section.

(2) After the thirty-day period, an action under subdivision (g)(1) of this section is not timely.

History. Acts 2015, No. 991, § 1; 2017, No. 567, § 1; 2017, No. 655, § 4.

Amendments. The 2017 amendment by No. 655 deleted the former (e)(1) designation; and deleted (e)(2).

The 2017 amendment by No. 567 rewrote the section.

Subchapter 12 — Consolidation of Municipalities

SECTION.
14-40-1206. Plat of consolidated municipality.
14-40-1207. Special election of council members or all city officials.
14-40-1208. Existing officers, etc.
14-40-1212. Rights of annexed territory to benefits of its revenues.

14-40-1206. Plat of consolidated municipality.

(a) The council of the larger city or incorporated town shall cause a plat to be made of the entire city or incorporated town after the annexation thereto and the division into wards of the smaller municipal corporation.

(b)(1) A certified copy of the plat shall be filed and recorded in the office of the circuit court and ex officio recorder of the county and with the Secretary of State.

(2)(A) Thereafter, the plat shall stand, be, and remain the division of the city or incorporated town into wards, and the number and boundaries thereof, until such time as it may be afterwards changed according to law.

(B) However, a change in the boundaries of the wards of the larger city or incorporated town shall not determine or affect the time of service of any previously elected council member of any ward in the larger city or incorporated town.

History. Acts 1913, No. 318, § 2; C. & M. Dig., § 7475; Pope's Dig., § 9508; A.S.A. 1947, § 19-314; Acts 2017, No. 879, § 4.

Amendments. The 2017 amendment, in (b)(2)(B), substituted "a change" for "no change", inserted "not", and substituted "council member" for "alderman".

14-40-1207. Special election of council members or all city officials.

(a)(1)(A) Except as provided under subdivision (a)(1)(B) of this section, the city or town council shall call a special election of council members to be held at such times and places as the council may direct pursuant to a proclamation issued by the mayor in accordance with § 7-11-101 et seq., in the wards of the smaller municipality and for the election of council members from any other new wards that may be created by the council out of territory included in the larger city or incorporated town before the annexation, as provided in this subchapter.

(B) If the petition calls for a citywide election for all officials of the new consolidated city or incorporated town, then the city or town council shall call a special election pursuant to a proclamation issued by the mayor in accordance with § 7-11-101 et seq. for all city or town officials to be held at the times and places as the city or town council may direct throughout each ward of the consolidated city or incorporated town.

(2) If the implementation of the consolidation of the cities or towns is delayed, the special election for new council members to a city or town council or all city officials shall be held at least forty-five (45) days before the effective date of the consolidation.

(b) Each ward of the consolidated city or incorporated town shall have two (2) council members, to be elected in the same manner and for the same term as council members are elected in cities and incorporated towns.

History. Acts 1913, No. 318, § 3; C. & M. Dig., § 7476; Pope's Dig., § 9509; A.S.A. 1947, § 19-315; Acts 2003, No. 1171, § 4; 2005, No. 2145, § 24; 2007, No. 1049, § 42; 2009, No. 1480, § 61; 2017, No. 879, § 5.

Amendments. The 2017 amendment substituted "council members" for "aldermen" in the section heading, and twice in (a)(1)(A) and (b); substituted "the city or town council" for "it" in (a)(1)(B); and substituted "council members to a city or town council" for "aldermen" in (a)(2).

14-40-1208. Existing officers, etc.

(a) The term of office of all officers, council members, and employees of the smaller municipality and all laws in force in the smaller municipality shall cease upon and after the consolidation.

(b)(1) Any mayor who is forced from office because of a merger of two (2) or more municipalities under this subchapter is presumed to meet the minimum service period under § 24-12-123.

(2) If the mayor who is forced from office has less than ten (10) years of actual service as mayor, then he or she is entitled to a prorated retirement benefit in an amount equal to the percentage of the mayor's

actual amount of service divided by the minimum ten (10) years of service required under § 24-12-123.

History. Acts 1913, No. 318, § 3; C. & M. Dig., § 7476; Pope's Dig., § 9509; A.S.A. 1947, § 19-315; Acts 2005, No. 2264, § 1; 2017, No. 879, § 6.

Amendments. The 2017 amendment substituted "council members" for "aldermen" in (a).

14-40-1212. Rights of annexed territory to benefits of its revenues.

(a) The wards formed out of the territory comprising the former territory of the smaller municipal corporation annexed under the provisions of this subchapter shall always receive betterments and improvements in an amount equal to the amount of revenue derived by the consolidated municipality from the territory and inhabitants of the smaller municipal corporation, after having deducted the pro rata share of the territory of the running expenses necessary to be expended in maintaining the government of the entire city or incorporated town and after having taken into consideration the amount of revenues necessarily appropriated to pay the indebtedness due by the smaller municipality before consolidation, until the indebtedness is paid. In addition, those wards shall always receive their fair and equitable proportion of the police, board of health, fire protection, and lighting service of the larger city or incorporated town. They shall in all other ways receive fair and liberal treatment and their fair proportion of the expenditure of moneys made by the larger city or incorporated town.

(b) Council members representing the wards composing the territory of the smaller municipal corporation before consolidation have a right:

(1) At all times, to demand of the city or town council the benefit of the revenue collected from the wards, as provided for in this section; and

(2) On the refusal by the city or town council of the demand made under subdivision (b)(1) of this section, to enforce the revenue rights by mandamus or other appropriate proceedings.

(c) In the event the council members, or fifty (50) qualified electors of the territory annexed, feel aggrieved in reference to the amount of revenue expended on the territory or as to the other rights guaranteed in this section to the annexed municipality, they may submit the matter to the circuit court, which is authorized by appropriate orders to compel the consolidated city or incorporated town to give the former territory of the smaller municipal corporation the full benefit of its revenue as provided in this section.

History. Acts 1913, No. 318, § 4; C. & M. Dig., § 7478; Pope's Dig., § 9511; A.S.A. 1947, § 19-317; Acts 2017, No. 879, §§ 7, 8.

Amendments. The 2017 amendment rewrote (b); and substituted "council members" for "alderman" near the beginning of (c).

Subchapter 20 — Municipal Services

SECTION.
14-40-2002. Annexation into adjoining municipality.
SECTION.
14-40-2006. Provision of municipal services.

14-40-2001. Purpose.

CASE NOTES

Cited: City of Tontitown v. First Sec. Bank, 2017 Ark. App. 326, 525 S.W.3d 18 (2017).

14-40-2002. Annexation into adjoining municipality.

(a)(1) A landowner or group of landowners seeking additional municipal services may have its land detached from the municipality in which it is located and annexed into another municipality that borders the land.

(2) However, before annexation is allowed, the municipality in which the land is located shall have an opportunity to provide the additional services.

(b) The following procedure shall apply:

(1) The landowner or landowners shall file a statement with the municipality in which the land is located listing the additional municipal service or services being sought and stating that:

(A) The municipality is not providing services necessary to create improvements, provide employment or additional employment, subdivide, or otherwise maximize the use and value of the property;

(B) All the land in the request composes one (1) area that is contiguous to another municipality;

(C) The additional services are available in another municipality that borders the land subject to the request; and

(D)(i) The municipality is requested to make a commitment to take substantial steps, within ninety (90) days after the statement is filed, toward providing the additional services and, within each thirty-day period thereafter, to continue taking steps to demonstrate a consistent commitment to provide the service within a reasonable time, as determined by the kind of services requested.

(ii) The commitment shall be made in writing to the landowner within thirty (30) calendar days of the filing of the statement, or the landowner may seek to have the land detached from the municipality and annexed into the other municipality.

(iii) The landowner shall take appropriate steps to make the land accessible to the service and comply with reasonable requests of the municipality that are necessary for the service to be provided;

(2) The landowner or landowners may request the annexation of the land into the other municipality and thereby detach the land from the boundaries of the municipality in which the land is currently located if:

(A) The municipality in which the land is located fails to execute a commitment to services within thirty (30) days after the statement is filed; or

(B) The municipality executes the commitment to services but fails to take the action required under subdivision (b)(1)(D) of this section;

(3)(A) The land shall be annexed into the other municipality if, after a request by the landowner or landowners, the governing body of the municipality into which annexation is sought indicates by ordinance, resolution, or motion its commitment to make the services available and its approval of the request for annexation.

(B)(i) The annexation shall be void and the land shall be returned to the original municipality if the annexing municipality fails to take substantial steps within ninety (90) days after the passage of the ordinance, resolution, or motion to make the services available and, within each thirty-day period thereafter, continues taking steps demonstrating a consistent commitment to make the additional service available within a reasonable time, as determined by the kind of services requested.

(ii) The landowner shall have taken appropriate steps to make the land accessible to the service and complied with the reasonable requests of the municipality that are necessary for the service to be provided.

(iii) However, if the requested services are not available within one hundred eighty (180) days after the property is accepted by the annexing jurisdiction or substantial steps are not taken to make the services available within this time period, then the detachment and annexation shall be void and all property returned to its original jurisdiction; and

(4) The land shall remain in the original municipality until it is annexed into the other municipality.

(c) Land annexed pursuant to this section shall not be eligible for reannexation under this section for a period of two (2) years.

(d) This section shall apply to residential, commercial, industrial, and unimproved land.

(e) For the purposes of this section, "services" means electricity, water, sewer, fire protection, police protection, drainage and storm water management, or any other offering by the municipality that materially affects a landowner's ability to develop, use, or expand the uses of the landowner's property.

History. Acts 1999, No. 779, § 2; 2001, No. 1522, § 1; 2001, No. 1525, §§ 1, 2; 2013, No. 1455, § 1; 2019, No. 838, § 1.

Amendments. The 2019 amendment substituted "shall" for "must" in (b)(1)(D)(ii), (b)(1)(D)(iii), and (b)(3)(B)(ii); substituted "composes" for "must compose" in (b)(1)(B); substituted "ninety (90) days" for "one hundred eighty (180) days" in (b)(1)(D)(i) and (b)(3)(B)(i); substituted "shall" for "must" in (b)(1)(D)(ii), (b)(1)(D)(iii), and (b)(3)(B)(ii); and substituted "one hundred eighty (180) days" for "twelve (12) months" in (b)(3)(B)(iii).

CASE NOTES

Analysis

Commitment to Provide Services.
Jurisdiction.

Commitment to Provide Services.

Circuit court properly granted declaratory judgment to the landowner bank where the municipality failed to inform the bank that specific plans and an engineer were needed before sewer and water services could be provided to the unimproved portion of the property; the municipality failed to take substantial steps, as required by this section, toward providing the services. City of Tontitown v. First Sec. Bank, 2017 Ark. App. 333, 522 S.W.3d 834 (2017).

Jurisdiction.

Circuit court had subject-matter jurisdiction to consider a landowner bank's petition for an order declaring that a municipality had failed to comply with this section, where the pleadings stated the statutory basis for jurisdiction and § 14-40-2004 allowed for such a petition. City of Tontitown v. First Sec. Bank, 2017 Ark. App. 333, 522 S.W.3d 834 (2017).

14-40-2004. Hearing in circuit court — Appeal.

CASE NOTES

Analysis

Dismissal with Prejudice.
Required Parties.

Dismissal with Prejudice.

Dismissing with prejudice a municipality's petition challenging annexation against a landowner bank, which had requested detachment under § 14-40-2002, was not error where the municipality had not completed any service at all on the bank, and as a result, the savings statute, § 16-56-126, did not apply. City of Tontitown v. First Sec. Bank, 2017 Ark. App. 326, 525 S.W.3d 18 (2017).

Required Parties.

Circuit court erred in dismissing the neighboring town and the purchaser of the annexed property based solely on the landowner's dismissal from the case as nothing in subdivision (b)(1) of this section required that the bank, as the landowner requesting annexation, be or remain a party to the lawsuit. City of Tontitown v. First Sec. Bank, 2017 Ark. App. 326, 525 S.W.3d 18 (2017).

Although subdivision (b)(1) of this section provides that the municipalities, the landowner who requested annexation, and a landowner who began owning land after the annexation request "are parties", the Act nowhere requires all of them to be or remain parties in every lawsuit filed under the Act. This section does not use the words "shall be parties", and the Court of Appeals will not read those words into the statute. City of Tontitown v. First Sec. Bank, 2017 Ark. App. 326, 525 S.W.3d 18 (2017).

14-40-2006. Provision of municipal services.

In a municipal services matter under this subchapter, if a city or incorporated town from which the inhabitants detached determines that the scheduled services are available or became available to the detaching inhabitants by the city or incorporated town to which the inhabitants were annexed into, the inhabitants shall automatically be detached and annexed back into the original city or incorporated town after the expiration of one hundred eighty (180) days following the date the schedule of services became available to the inhabitants and the inhabitants have not used the services.

History. Acts 2015, No. 882, § 1.

CHAPTER 42

GOVERNMENT OF MUNICIPALITIES GENERALLY

SUBCHAPTER.

1. General Provisions.
2. Elections.
4. Departments of Public Safety.

Subchapter 1 — General Provisions

SECTION.

14-42-102. Corporate authority of cities.
14-42-106. Oath and bond required.
14-42-107. Interest in offices or contracts prohibited.
14-42-109. Removal of elective or appointed officers.
14-42-113. Salaries of officials — Salary withheld if professional license or registration suspended — Definition.
14-42-121. Allowance for meal tips.
14-42-122. City attorney in mayor-council cities of fewer than 10,000.
14-42-123. Uniform catastrophic leave program — Definition.

14-42-102. Corporate authority of cities.

The corporate authority of cities that are organized shall be vested in one (1) principal officer, to be called the mayor, and one (1) board of council members, to be called the city council, together with such other officers as are mentioned in this subtitle or may be created under its authority.

History. Acts 1875, No. 1, § 5, p. 1; C. & M. Dig., § 7459; Pope's Dig., § 9492; A.S.A. 1947, § 19-901; Acts 2017, No. 879, § 9.

Amendments. The 2017 amendment substituted "council members" for "alderman".

14-42-106. Oath and bond required.

(a) All officers elected or appointed in any municipal corporation shall take the oath or affirmation prescribed for officers by the Arkansas Constitution.

(b)(1) Except as provided in subdivision (b)(2) of this section, the officers shall take their oaths before:

(A) The Secretary of State or his or her official designee;

(B) A justice or judge;

(C) A judge of the county court;

(D) A clerk of the:

(i) County court;

(ii) Circuit court; or

(iii) City of the first class;

(E) A recorder of:

(i) A city of the second class; or

(ii) An incorporated town; or

(F) A justice of the peace.

(2) The council members also may take their oaths before the mayor of the municipality.

(c) The council members of a municipal corporation may require from the officers, as they think proper, a bond with good and sufficient security and with a proper penalty for the faithful discharge of their office and duty.

(d) The council members shall have the power to declare the office of any elected or appointed person vacant who shall fail to take the oath of office or give the bond required in this section within ten (10) days of the first day of January after his or her election or within ten (10) days after he or she has been notified of his or her appointment. In such case, the council members shall proceed to appoint as in other cases of vacancy.

History. Acts 1875, No. 1, § 73, p. 1; C. & M. Dig., § 7517; Pope's Dig., § 9577; A.S.A. 1947, § 19-904; Acts 1999, No. 650, § 1; 2007, No. 601, § 1; 2017, No. 138, § 1; 2017, No. 879, § 10.

Amendments. The 2017 amendment by No. 138 rewrote (b)(1).

The 2017 amendment by No. 879 substituted "council members" for "alderman" in (b)(2); substituted "council members" for "alderman or council" in (c); and substituted "members" for "or aldermen" twice in (d).

14-42-107. Interest in offices or contracts prohibited.

(a)(1) A council member or elected official of a municipal corporation, during the term for which he or she has been elected or one (1) year thereafter, shall not be appointed to any municipal office that was created or the emoluments of which have been increased during the time for which he or she has been elected except to fill a vacancy in the office of mayor, council member, clerk, clerk-treasurer, recorder, or recorder-treasurer.

(2) A council member shall not be appointed to any municipal office, except in cases provided for in this subtitle, during the time for which he or she may have been elected.

(b)(1) A council member, official, or municipal employee shall not be interested, directly or indirectly, in the profits of any contract for furnishing supplies, equipment, or services to the municipality unless the governing body of the city has enacted an ordinance specifically permitting council members, officials, or municipal employees to conduct business with the city and prescribing the extent of this authority.

(2) The prohibition prescribed in this subsection does not apply to contracts for furnishing supplies, equipment, or services to be performed for a municipality by a corporation in which no council member, official, or municipal employee holds any executive or managerial office or by a corporation in which a controlling interest is held by stockholders who are not council members.

History. Acts 1875, No. 1, § 86, p. 1; C. & M. Dig., § 7520; Pope's Dig., § 9580; Acts 1963, No. 182, § 1; 1981, No. 485, § 1; A.S.A. 1947, § 19-909; Acts 2003, No.

1299, § 1; 2009, No. 403, § 1; 2017, No. 879, § 11.

Amendments. The 2017 amendment, in (a)(1), substituted "A council member" for "No alderman, member of any council", inserted "not" following "shall", and substituted "council member" for "alderman"; substituted "A council member shall not" for "No alderman or council member shall" in (a)(2); in (b)(1), substituted "A council" for "No alderman, council", and deleted "alderman" following "permitting"; and in (b)(2), substituted "does not" for "shall not", deleted "alderman" following "which no", and deleted "alderman or" following "are not".

14-42-109. Removal of elective or appointed officers.

(a)(1)(A) If the mayor, member of the city council, or any other elective officer of any city of the first class or second class or incorporated town in this state shall wilfully and knowingly fail, refuse, or neglect to execute, or cause to be executed, any of the laws or ordinances within their jurisdiction, they shall be deemed guilty of nonfeasance in office.

(B)(i) It shall be the duty of the circuit court of any county within which any officer may be commissioned and acting, upon indictment charging any such officer with nonfeasance in office, to hear and determine the charges.

(ii) If, upon hearing, the charges are proved to be true, the court shall enter a judgment of record removing the guilty officer from office.

(2) The council of any city or incorporated town may provide, by proper ordinance, for the removal of any appointive officer upon a majority vote of the council.

(b)(1) Upon the entering of judgment as provided in subdivision (a)(1) of this section, the office of mayor shall become vacant.

(2)(A) It shall be the duty of the clerk of the circuit court to immediately make out and deliver to the Governor a true and certified copy of the judgment.

(B) Thereupon, it shall be the duty of the Governor to at once appoint and commission a mayor for the city or town to fill the vacancy until his or her successor is elected at the next regular election and qualified.

(c) Any mayor so removed from office shall have the right of appeal to the Supreme Court. However, no appeal shall have the effect of suspending the judgment of removal of the circuit court. If the judgment is reversed, it shall have the effect of reinstating the officer to his or her office.

History. Acts 1895, No. 54, §§ 1-4, p. 69; C. & M. Dig., §§ 7525-7527; Acts 1929, No. 115, § 1; Pope's Dig., §§ 9585-9587; A.S.A. 1947, §§ 19-919 — 19-921; Acts 2017, No. 260, § 5.

Amendments. The 2017 amendment deleted "or police judge" following "mayor" throughout the section.

14-42-113. Salaries of officials — Salary withheld if professional license or registration suspended — Definition.

(a)(1) Except as provided in subsections (b) and (c) of this section, the salary of an official of a city of the first class, a city of the second class, or an incorporated town may be increased during the term for which the official has been elected or appointed and may be decreased during the term only if requested by the official.

(2) When any city official whose salary is decreased under subdivision (a)(1) of this section leaves office before the expiration of his or her term, his or her successor shall receive a salary not less than the salary for the office immediately before the salary was decreased under subdivision (a)(1) of this section.

(b)(1) The salary of an elected official of a city of the first class, a city of the second class, or an incorporated town shall be withheld if:

(A) The elected official is required to hold a professional license or registration as a qualification of his or her position; and

(B) The elected official's professional license or registration is suspended.

(2) Upon suspending the professional license or registration of an elected official of a city of the first class, a city of the second class, or an incorporated town, the agency, board, commission, or other authority that issues the professional license or registration at issue shall notify in writing the appropriate municipality or incorporated town.

(3) Upon learning that an elected official's required professional license or registration has been suspended, the governing body of a city of the first class, city of the second class, or incorporated town may cease paying the elected official's salary from the date of suspension.

(4)(A) Upon restoration of the elected official's professional license or registration, the elected official of a city of the first class, a city of the second class, or an incorporated town may petition the governing body of the city or town for a resumption of salary, and the governing body shall initiate measures to ensure that the elected official's salary is resumed.

(B) The elected official whose salary is resumed under subdivision (b)(4)(A) of this section shall not receive his or her salary for the period that the salary was withheld.

(5)(A) As used in this subsection, "salary" means the compensation paid to an elected official of a city of the first class, a city of the second class, or an incorporated town for service in that position.

(B) "Salary" includes without limitation any benefits provided to the elected official by virtue of his or her position, including without limitation:

(i) Health insurance;

(ii) Retirement contributions; and

(iii) Retirement benefits.

(c)(1) The salary for a municipal office may be lowered if the municipal office is vacant.

(2) As used in this subsection, "municipal office" means:
(A) Treasurer;
(B) Clerk;
(C) Recorder;
(D) Clerk-treasurer; and
(E) Recorder-treasurer.

History. Acts 1969, No. 249, § 1; A.S.A. 1947, § 19-907.1; Acts 2001, No. 563, § 1; 2011, No. 199, § 1; 2013, No. 523, § 1; 2017, No. 260, § 6; 2019, No. 336, § 1.

Amendments. The 2017 amendment substituted "official whose salary is resumed" for "official who receives an order for the resumption of his or her salary" in (b)(4)(B).

The 2019 amendment substituted "subsections (b) and (c)" for "subsection (b)" in (a)(1); in (a)(2), substituted "decreased under subdivision (a)(1)" for "decreased pursuant to subdivision (a)(1)" and substituted "before the salary was decreased under subdivision (a)(1)" for "before its being decreased pursuant to subdivision (a)(1)"; substituted "the elected official of a city" for "an elected official of a city" in (b)(4)(A); substituted "The elected official" for "An elected official" in (b)(4)(B); added (c); and made stylistic changes.

14-42-121. Allowance for meal tips.

(a) If authorized by the governing body of the municipality, reimbursements to municipal employees for the purchase of meals and meal tips shall be:
(1) Based on the actual expense incurred; or
(2)(A) Made on a per diem basis.
(B) A per diem reimbursement under subdivision (a)(2)(A) of this section shall be made under an accountable plan as defined by Internal Revenue Service regulations as in existence on January 1, 2017.
(b) Reimbursement for meal tips under subsection (a) of this section shall not exceed fifteen percent (15%) of the purchase amount of the meal.

History. Acts 2017, No. 919, § 1.

14-42-122. City attorney in mayor-council cities of fewer than 10,000.

(a)(1) If not established by ordinance that the office of the city attorney will be appointed, the qualified voters of cities of the first class having a population of fewer than ten thousand (10,000) and having the mayor-council form of government shall elect a city attorney for four (4) years on the Tuesday following the first Monday in November 2022 and every four (4) years thereafter.
(2) An incumbent city attorney shall continue in office until his or her successor is elected and qualified.
(b)(1) If no attorney residing in the city is elected as city attorney, the city council may appoint a resident attorney to fill the office for the remainder of the unfilled term.

(2)(A) If no attorney of the city serves as city attorney by election or appointment or if no attorney resides within the municipal boundaries of the city, then upon a two-thirds vote the city council may contract with any licensed attorney of this state or the licensed attorney's law firm to serve as legal advisor, counselor, or prosecutor.

(B) The duties of an attorney under contract shall be prescribed by ordinance.

History. Acts 2019, No. 609, § 1.

14-42-123. Uniform catastrophic leave program — Definition.

(a) As used in this section, "municipality" means a city of the first class, a city of the second class, or an incorporated town.

(b)(1) A municipality may develop, implement, and maintain a catastrophic leave program by ordinance.

(2) A municipal employee may irrevocably donate his or her accrued leave to a catastrophic leave program at the option of the municipal employee.

(3) A municipality may create a "presumptive illness list" of illnesses that are presumed to qualify for catastrophic leave, if the municipality creates the list based on peer-reviewed scientific data.

(c) Catastrophic leave with pay may be granted to a municipal employee if the municipal employee is unable to perform his or her duties due to a catastrophic illness and is, or is reasonably expected to be, on leave without pay as a result of the need for catastrophic leave.

(d) A municipal employee may be eligible for catastrophic leave under this section if the municipal employee:

(1) Works full time;

(2) Has been employed by the municipality for the immediately preceding five (5) consecutive years or more in a full-time position, unless the municipality determines a shorter term of years is appropriate;

(3) Has exhausted all available leave time;

(4)(A) An acceptable medical certificate from a physician supporting the continuing absence is on file and includes without limitation an approximate date of return.

(B) A municipality may require a municipal employee to receive more than one (1) physician opinion; and

(5) Has not been disciplined or counseled for an abuse of leave during the immediately preceding five (5) years.

(e) Unless the municipality determines otherwise, catastrophic leave is not available to a municipal employee under this section if the municipal employee has applied for catastrophic leave as a result of an illness or injury that is covered by workers' compensation benefits under applicable law.

(f) Catastrophic leave under this section shall:

(1) Run concurrently with the Family and Medical Leave Act of 1993, Pub. L. No. 103-3;

(2) Be donated and taken in one-hour increments and donated or applied for on approved forms;

(3) Not be awarded retroactively; and

(4) Be awarded only if catastrophic leave is available in the municipality's catastrophic leave program.

History. Acts 2019, No. 883, § 1.

Subchapter 2 — Elections

SECTION.
14-42-201. Election of municipal officers generally.
14-42-203. Special elections of city mayors.
14-42-206. Municipal elections — Nominating petitions.

Effective Dates. Acts 2015 (1st Ex. Sess.), No. 4, § 8: May 29, 2015. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that independent candidates may circulate petitions for candidacy for ninety (90) days before the deadline for filing as a candidate for office; and that without an emergency clause, the effective date of this act will cause confusion regarding the rights and interests of independent candidates and the time period for circulating petitions for candidacy. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 597, § 10: July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there is a need for uniform candidate filing and petition circulation periods; that if there is a delay in implementation, some candidate filing and petition circulation periods may be disrupted by the change in the middle of a candidate's campaign; and that this act should become effective before candidates begin circulating petitions and filing for candidacy in the 2019 November annual school elections. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

14-42-201. Election of municipal officers generally.

(a) The general election for the election of municipal officials in all cities and incorporated towns shall be held on the Tuesday following the first Monday in November.

(b) All municipal officials of the cities and towns of the State of Arkansas shall take office January 1 of the year following their election.

(c)(1) In addition to other residency requirements imposed by state law for municipal office holders, candidates for the positions of mayor, clerk, recorder, or treasurer must reside within the corporate municipal limits at the time they file as candidates and must continue to reside within the corporate limits to retain elective office.

(2) In cities of the first class and cities of the second class, candidates for the position of council member shall reside within the corporate limits and their respective wards at the time they file as candidates for council member and when holding that office.

History. Acts 1949, No. 307, §§ 1-3; A.S.A. 1947, §§ 19-902.1 — 19-902.3; Acts 1995, No. 555, § 1; 1995, No. 671, § 1; 1999, No. 642, § 1; 2001, No. 1833, § 1; 2017, No. 879, § 12.

Amendments. The 2017 amendment, in (c)(2), substituted "council member" for "alderman" twice.

14-42-203. Special elections of city mayors.

(a) Special elections of mayors of cities of the first class and cities of the second class shall be held at such time and place as the council directs in accordance with § 7-11-101 et seq.

(b) In all cities there shall be a place appointed in each ward for holding elections, except in cities of the second class electing their council members citywide, where there may be one (1) public place only for holding elections.

(c) Any person who, at the time of the election of municipal officers, is a qualified elector and registered to vote in the city precinct where he or she resides shall be deemed a qualified elector.

(d) All elections shall be held and conducted in the manner prescribed by law for holding state and county elections, so far as the laws may be applicable.

History. Acts 1875, No. 1, § 71, p. 1; C. & M. Dig., § 7515; Acts 1937, No. 259, § 1; Pope's Dig., § 9574; Acts 1959, No. 114, § 1; 1985, No. 422, § 1; A.S.A. 1947, § 19-902; Acts 1997, No. 645, § 2; 2005, No. 2145, § 26; 2007, No. 1049, § 44; 2009, No. 1480, § 62; 2017, No. 879, § 13.

Amendments. The 2017 amendment substituted "council members" for "aldermen" in (b).

14-42-206. Municipal elections — Nominating petitions.

(a)(1) The city or town council of any city or town with the mayor-council form of government, may request the county party committees of recognized political parties under the laws of the state to conduct party primaries for municipal offices for the forthcoming year by resolution passed:

(A) Before January 1 of the year of the election, if the election will occur in a year in which the preferential primary election is held in May under § 7-7-203; and

(B) No less than sixty (60) days before the party filing period begins under § 7-7-203, if the election will occur in a year in which the preferential primary election is held in March under § 7-7-203.

(2) The resolution shall remain in effect for the subsequent elections unless revoked by the city or town council.

(3) When the resolution has been adopted, the clerk or recorder shall mail a certified copy of the resolution to the chairs of the county party committees and to the chairs of the state party committees.

(4) Candidates nominated for municipal office by political primaries under this section shall be certified by the county party committees to the county board of election commissioners and shall be placed on the ballot at the general election.

(b)(1) Any person desiring to become an independent candidate for municipal office in cities and towns with the mayor-council form of government shall file during a one-week period ending at 12:00 noon ninety (90) days before the general election with the county clerk the petition of nomination in substantially the following forms:

(A) For all candidates except council members in cities of the first class and cities of the second class:

"PETITION OF NOMINATION

We, the undersigned qualified electors of the city (town) of _____, Arkansas, being in number not less than ten (10) for incorporated towns and cities of the second class, and not less than thirty (30) for cities of the first class, do hereby petition that the name of _____ be placed on the ballot for the office of _____ (A candidate for council member in an incorporated town shall identify the position for which he or she is running) at the next election of municipal officials in 20____.

Printed Name: _____

Signature: _____

Street Address: _____

Date of Birth: _____

Date of Signing: _____";

(B) For candidates for council member elected by ward in cities of the first class and cities of the second class, the nominating petitions shall be signed only by qualified electors of the ward in the following manner:

"PETITION OF NOMINATION

We, the undersigned qualified electors of Ward _____ of the city of _____, Arkansas, being in number not less than ten (10) for cities of the second class, and not less than thirty (30) for cities of the first class, do hereby petition that the name of _____ be placed on the ballot for the office of council member, Ward _____, position _____, of the next election of municipal officials in 20 ____.

Printed Name: _____

Signature: _____

Street Address: _____

Date of Birth: _____

Date of Signing: _____"; and

(C) For at-large candidates for council member of a ward in cities of the first class and cities of the second class, the nominating petitions shall be signed by a qualified elector of the city in the following manner:

"PETITION OF NOMINATION

We, the undersigned qualified electors of the city of _____, Arkansas, being in number not less than ten (10)

for cities of the second class, and not less than thirty (30) for cities of the first class, do hereby petition that the name of _____ be placed on the ballot for the office of council member, Ward _____, position _____, of the next election of municipal officials in 20 ____.

Printed Name: _____

Signature: _____

Street Address: _____

Date of Birth: _____

Date of Signing: _____".

(2)(A) An independent candidate for municipal office may qualify by a petition to be circulated for no longer than ninety (90) days of not fewer than ten (10) electors for incorporated towns and cities of the second class and not fewer than thirty (30) electors for cities of the first class of the ward or city in which the election is to be held.

(B)(i) The county clerk shall determine no later than ten (10) days from filing whether the petition contains the names of a sufficient number of qualified electors and certify that no signatures are dated more than ninety (90) days before the filing of the petition.

(ii) The county clerk's determination shall be made no less than seventy-five (75) days before the general election.

(C) The county clerk promptly shall notify the candidate of the result.

(3) Independent candidates for municipal office shall file a political practices pledge and an affidavit of eligibility at the time of filing their petitions.

(4)(A) An independent candidate shall state the position, including the position number, if any, on his or her petition.

(B) When a candidate has identified the position sought on the notice of candidacy, the candidate shall not be allowed to change the position but may withdraw a notice of candidacy and file a new notice of candidacy designating a different position before the deadline for filing.

(5) The sufficiency of a petition filed under this section may be challenged in the same manner as election contests under § 7-5-801 et seq.

(6) A person who has been defeated in a party primary shall not file as an independent candidate in the general election for the office for which he or she was defeated in the party primary.

(c)(1)(A) If no candidate receives a majority of the votes cast in the general election, the two (2) candidates receiving the highest number of votes cast for the office to be filled shall be the nominees for the respective offices, to be voted upon in a runoff election pursuant to § 7-5-106.

(B) In any case, except for the office of mayor, in which only one (1) candidate has filed and qualified for the office, the candidate shall be declared elected and the name of the person shall be certified as elected without the necessity of putting the person's name on the general election ballot for the office.

(2) If the office of mayor is unopposed, then the candidate for mayor shall be printed on the general election ballot and the votes for mayor shall be tabulated as in all contested races.

(d)(1)(A) The governing body of any city of the first class, city of the second class, or incorporated town may enact an ordinance requiring independent candidates for municipal office to file petitions for nomination as independent candidates with the county clerk:

(i) No earlier than twenty (20) days prior to the preferential primary election; and

(ii) No later than 12:00 noon on the day before the preferential primary election.

(B) The governing body may establish this filing deadline for municipal offices even if the municipal offices are all independent or otherwise nonpartisan.

(2)(A) The ordinance shall be enacted no later than ninety (90) days prior to the filing deadline.

(B) The ordinance shall be published at least one (1) time a week for two (2) consecutive weeks immediately following adoption of the ordinance in a newspaper having a general circulation in the city.

(e) A person filing for municipal office may file for only one (1) municipal office during the municipal filing period.

(f) Nothing in this section shall repeal any law pertaining to the city administrator form of government or the city manager form of government.

(g) This section does not apply in any respect to the election of district judges.

History. Acts 1991, No. 59, §§ 2, 3; 1991, No. 430, §§ 2, 3; 1995, No. 82, § 1; 1995, No. 665, § 1; 1997, No. 645, § 3; 1999, No. 752, § 1; 2001, No. 1789, § 8; 2003, No. 542, § 3; 2003, No. 1104, § 1; 2003, No. 1165, § 10; 2003, No. 1185, § 24; 2007, No. 1020, § 21; 2007, No. 1049, § 45; 2009, No. 1480, § 63; 2011, No. 519, § 1; 2011, No. 1185, §§ 18, 19; 2013, No. 1066, § 1; 2015, No. 4, § 4; 2015 (1st Ex. Sess.), No. 4, § 4; 2017, No. 879, § 14; 2019, No. 545, § 8; 2019, No. 597, § 8.

A.C.R.C. Notes. Acts 2015 (1st Ex. Sess.), No. 4, § 6, provided:

"(a) To ensure that independent candidates are provided the maximum number of days allowed by law to circulate petitions to qualify as an independent candidate, the provisions of this act are retroactive to August 1, 2015.

"(b) Signatures on a petition to have the name of a person placed upon the ballot as an independent candidate under § 7-7-103 collected between August 11, 2015, and the effective date of this act shall be counted if:

"(1) The signatures are not otherwise collected in violation of Arkansas law;

"(2) The signatures otherwise comply with applicable Arkansas law; and

"(3) The petition is lawfully filed."

Acts 2015 (1st Ex. Sess.), No. 4, § 7, provided:

"(a) This act is cumulative of existing laws and shall not repeal but merely suspend any law in conflict with the act.

"(b) The provisions of this act are temporary and expire on December 31, 2016.

"(c) On and after December 31, 2016, the provisions of law suspended by this act shall be in full force and effect.

"(d) The expiration of this act shall not affect rights acquired under it or affect suits then pending."

Amendments. The 2015 (1st Ex. Sess.) amendment substituted "no less than sixty (60) days before the party filing period under § 7-7-203" for "before January 1 of the year of the election" in (a)(1).

The 2017 amendment substituted "council member" for "alderman" and

made similar substitutions throughout (b)(1); and made stylistic changes.

The 2019 amendment by No. 545, in the introductory language of (a)(1), deleted "by resolution passed before January 1 of the year of the election" following "government" and added "by resolution passed"; and added (a)(1)(A) and (a)(1)(B).

The 2019 amendment by No. 597 substituted "file during a one-week period ending at 12:00 noon ninety (90) days before the general election" for "file not more than one hundred two (102) days nor less than eighty-one (81) days before the general election by 12:00 noon" in the introductory language of (b)(1); inserted "to be circulated for no longer than ninety (90) days" in (b)(2)(A); added "and certify that no signatures are dated more than ninety (90) days before the filing of the petition" in (b)(2)(B)(i); and made stylistic changes.

Subchapter 4 — Departments of Public Safety

SECTION.

14-42-401 — 14-42-425. [Repealed.]

14-42-401 — 14-42-425. [Repealed.]

A.C.R.C. Notes. The repeal of this subchapter by Acts 2019, No. 150, supersedes the amendment of §§ 14-42-409 and 14-42-425(b) by Acts 2019, No. 315.

Acts 2019, No. 315, § 993, amended §§ 14-42-409 to read as follows: "14-42-409. Applicable regulations, rules, and laws. All applicable regulations, rules, and statutes regulating the conduct of police or fire departments or their functions shall apply to a department of public safety and its employees."

Acts 2019, No. 315, § 994, amended § 14-42-425(b) to read as follows: "(b) All applicable regulations, rules, and statutes regulating the certification of law enforcement officers, the certification of fire departments, and the conduct of police or fire departments or their functions shall apply to a department of public safety and its employees."

Publisher's Notes. This subchapter was repealed by Acts 2019, No. 150, § 1, effective July 24, 2019. The subchapter was derived from the following sources:

14-42-401. Acts 1985, No. 481, § 1; A.S.A. 1947, § 19-947.

14-42-402. Acts 1985, No. 481, § 2; A.S.A. 1947, § 19-948.

14-42-403. Acts 1985, No. 481, § 3; A.S.A. 1947, § 19-949; Acts 1989, No. 839, § 1.

14-42-404. Acts 1985, No. 481, § 4; A.S.A. 1947, § 19-950.

14-42-405. Acts 1985, No. 481, § 5; A.S.A. 1947, § 19-951.

14-42-406. Acts 1985, No. 481, § 6; A.S.A. 1947, § 19-952.

14-42-407. Acts 1985, No. 481, § 7; A.S.A. 1947, § 19-953.

14-42-408. Acts 1985, No. 481, § 8; A.S.A. 1947, § 19-954.

14-42-409. Acts 1985, No. 481, § 9; A.S.A. 1947, § 19-955; Acts 2019, No. 315, § 993.

14-42-410. Acts 1979, No. 659, § 1; A.S.A. 1947, § 19-1060; Acts 1989, No. 262, §§ 1, 2.

14-42-411. Acts 1979, No. 659, § 2; A.S.A. 1947, § 19-1061.

14-42-412. Acts 1979, No. 659, § 3; A.S.A. 1947, § 19-1062.

14-42-413. Acts 1979, No. 659, § 4; A.S.A. 1947, § 19-1063.

14-42-414 — 14-42-420. [Reserved.]

14-42-421. Acts 1997, No. 728, § 1.

14-42-422. Acts 1997, No. 728, § 2.

14-42-423. Acts 1997, No. 728, § 3.

14-42-424. Acts 1997, No. 728, § 4.

14-42-425. Acts 1997, No. 728, § 5; 2019, No. 315, § 994.

CHAPTER 43

GOVERNMENT OF CITIES OF THE FIRST CLASS

SUBCHAPTER.

3. Election of City Officials.

SUBCHAPTER
4. OFFICERS AND EMPLOYEES GENERALLY.
5. POWERS AND DUTIES GENERALLY.
6. POWERS OVER MUNICIPAL AFFAIRS.

SUBCHAPTER 3 — ELECTION OF CITY OFFICIALS

SECTION.
14-43-303. Officials in mayor-council cities of 50,000 or more.
14-43-304. Mayors in cities having mayor-council government.
14-43-307. Election of council members at large or by ward.
14-43-308. Residence qualifications of council members in primaries.
14-43-309. Residence qualifications of council members in general elections.
SECTION.
14-43-310. Council member ceasing to reside in ward.
14-43-311. Redistricting of wards.
14-43-312. Council members in mayor-council cities of fewer than 50,000.
14-43-316. City clerk, treasurer, or clerk-treasurer in mayor-council cities of fewer than 50,000.

14-43-303. Officials in mayor-council cities of 50,000 or more.

(a)(1)(A) In the general election in the year 1960, and every four (4) years thereafter, cities of the first class that have a population of fifty thousand (50,000) persons or more, according to the latest federal decennial census or special federal census, and that also have the mayor-council form of government shall elect the following officials:

(i) One (1) mayor;

(ii) One (1) city clerk; and

(iii) One (1) council member from each ward of the city.

(B) All of these officials shall hold office for a term of four (4) years and until their successors are elected and qualified.

(2)(A) At the general election in the year 1962 and every four (4) years thereafter, the city shall elect:

(i) One (1) city attorney;

(ii) One (1) city treasurer; and

(iii) One (1) council member from each ward of the city.

(B) All of these officials shall hold office for a term of four (4) years and until their successors are elected and qualified.

(3) The governing body of a city in transition to the mayor-council form of government may provide by ordinance that the mayor, city clerk, city attorney, and city treasurer shall be elected on the same date and every four (4) years thereafter.

(b) In all primaries or general elections, the candidates for the office of council member shall reside in their respective wards. However, all qualified electors residing in these cities and entitled to vote in the elections may vote at their several voting precincts for each and every candidate so to be nominated or elected.

(c) All odd-year elections for municipal officials in the cities of the first class that have a population of fifty thousand (50,000) or more

persons, according to the latest federal census, and that also have the mayor-council form of government are abolished.

(d)(1) If a city first attains a population of fifty thousand (50,000) as shown in a federal decennial census or special federal census completed after January 1, 1997, and the mayor or other elected official of the city last elected before the census was elected to a four-year term and the term will expire two (2) years before the quadrennial general election year at which city officials are elected as provided in subsection (a) of this section, the terms of such officials shall be extended for a period of two (2) years in order that the terms will coincide with the next quadrennial general election year. At that quadrennial general election and at each quadrennial general election thereafter, the mayor and such other municipal officials shall be elected to terms of four (4) years as provided in this section.

(2) The provisions of this subsection shall not affect in any way the provisions of this section that provide for staggering the terms of office of council members so that one (1) council member will be elected from each ward every two (2) years.

History. Acts 1959, No. 176, §§ 1, 2; A.S.A. 1947, §§ 19-1002.2, 19-1002.3; Acts 1997, No. 707, §§ 2, 3; 2003, No. 1185, § 25; 2015, No. 233, § 1; 2017, No. 879, § 15; 2019, No. 1092, § 1.

Amendments. The 2015 amendment deleted former (a)(2); and redesignated former (a)(3) as present (a)(2).

The 2017 amendment substituted "council member" for "alderman" in (a)(1)(A)(iii), (a)(2)(A)(iii), (b), and twice in (d)(2); and substituted "may vote" for "shall have the right to vote" in (b).

The 2019 amendment added (a)(3).

14-43-304. Mayors in cities having mayor-council government.

(a)(1) A mayor of a city of the first class having a mayor-council form of government shall be elected:

(A) By a majority vote of the qualified electors of the city; or

(B) In accordance with § 7-5-106.

(2) This section does not apply to a city of the first class with a city manager form of government or a city administrator form of government.

(b)(1) As soon as the returns from all precincts are received, but no later than the fifteenth day after the election, the county board of election commissioners shall proceed to ascertain, from the certificates and ballots received from the several precincts, and declare the result of the election and deliver a certificate of his or her election to any person having the requisite amount of legal votes for the office of mayor.

(2) The county board of election commissioners shall also file in the office of the clerk of the county court a certificate setting forth in detail the results of the election.

(c)(1) If no candidate for mayor of a city of the first class receives the requisite amount of the votes cast in the general election, the two (2) candidates receiving the highest number of votes shall be certified to a

special runoff election that shall be held four (4) weeks from the day on which the general election is held.

(2) The special runoff election shall be conducted in the same manner as provided by law, and the election results of the special runoff election shall be canvassed and certified in the manner provided by law.

(d) If a vacancy occurs in the office of mayor of a city described in this section and the unexpired term is more than one (1) year, the vacancy shall be filled by a special election and special runoff election, if necessary, as provided in subsection (c) of this section.

History. Acts 1975, No. 269, §§ 1-3; A.S.A. 1947, §§ 19-1002.9 — 19-1002.11; 2003, No. 1165, § 13[11]; 2017, No. 163, § 1; 2017, No. 1104, § 7.

Amendments. The 2017 amendment by No. 163 rewrote the section.

The 2017 amendment by No. 1104, in (c)(1), substituted "If" for "In the event that", "the requisite amount" for "a majority", and "four (4) weeks" for "three (3) weeks".

14-43-307. Election of council members at large or by ward.

(a)(1) Candidates for the office of council member in cities of the first class shall reside in the ward from which they seek to be elected and shall run at large.

(2)(A) All of the qualified electors of these cities shall be entitled to vote in the election.

(B)(i)*(a)* Except as provided under subsection (b) of this section, provisions shall be made by the election commissioners in these cities so that the qualified electors of each ward shall have at least one (1) voting site in each ward where the resident electors thereof may cast their ballots.

(b) The county board of election commissioners may reduce the number of voting sites in a city of the first class by unanimous vote if:

(1) In the most recent federal decennial census the city has a population of five thousand (5,000) or less; and

(2) The county in which the city is situated has established vote centers under § 7-5-101.

(ii) Cities of the second class that elect their council members citywide may have one (1) public place only for holding elections.

(b)(1)(A) The city council of any such city or the governing body of any city in transition to the mayor-council form of government may provide by ordinance that all council members be elected by ward, in which event each council member shall be voted upon by the qualified electors of the ward from which he or she is a candidate.

(B)(i) When so provided by city ordinance, the name of the candidate shall appear upon the ballot only in the ward in which he or she is a candidate.

(ii) The city council of these cities may provide for the election of one (1) council member from each ward citywide and the other council members from each ward by the voters of the ward only.

(2) All such cities choosing to elect all council members by wards or in part by wards shall provide, in the manner provided by law, for the

establishment of wards of substantially equal population in order that each council member elected from each ward shall represent substantially the same number of people in the city.

History. Acts 1965, No. 484, § 3; 1969, No. 45, § 1; 1973, No. 501, § 1; 1985, No. 421, § 1; A.S.A. 1947, § 19-1002.7; Acts 1993, No. 857, § 1; 2017, No. 879, § 16; 2019, No. 949, § 1.

Amendments. The 2017 amendment substituted "council member" for "alderman" and made similar changes throughout the section; and in (b)(1)(A), substituted "may provide by ordinance" for "is empowered and authorized to provide, by ordinance" and substituted "he or she" for "the person".

The 2019 amendment added the (a)(2)(B)(i)*(a)* designation; in (a)(2)(B)(i)*(a)*, substituted "Except as provided under subsection (b) of this section, provisions" for "Provisions" and substituted "site" for "precinct"; and added (a)(2)(B)(i)*(b)*.

Cross References. Special election of council member in territory annexed by municipality, § 14-40-1207.

14-43-308. Residence qualifications of council members in primaries.

(a)(1) In all primaries held in any city of the first class by any organized political party, the candidates for nomination for the office of council member shall reside in their respective wards.

(2) All qualified electors residing in these cities and entitled to vote in the primaries may vote at their several voting precincts for each and every candidate so to be nominated.

(b)(1) The city council may provide by ordinance that the candidate shall only be voted upon by qualified voters of the ward who are entitled to vote in the primary from which the person is a candidate.

(2) When provided by ordinance, a candidate under subdivision (b)(1) of this section shall appear upon the ballot only in the ward in which he or she is a candidate.

History. Acts 1949, No. 112, § 1; A.S.A. 1947, § 19-1003.1; Acts 2017, No. 879, § 17.

Amendments. The 2017 amendment substituted "council members" for "aldermen" in the section heading; substituted "council member" for "alderman" in (a)(1); substituted "may vote" for "shall have the right to vote" in (a)(2); substituted "may provide by ordinance" for "is authorized and empowered to provide, by ordinance" in (b)(1); and substituted "provided by ordinance, a candidate under subdivision (b)(1) of this section" for "so provided by ordinance, any of the candidates in such a case" in (b)(2).

14-43-309. Residence qualifications of council members in general elections.

(a)(1) In all general elections for council members in cities of the first class, the council members so elected shall reside in their respective wards, as provided by law.

(2) All qualified electors residing in these cities may vote at their several voting precincts for each council member so to be elected.

(b)(1) The city council of a a city of the first class may provide by ordinance that each council member shall only be voted upon by qualified voters of the ward from which the person is a candidate.

(2) When provided by ordinance, the name of the candidate shall appear upon the ballot only in the ward in which he or she is a candidate.

History. Acts 1949, No. 112, § 2; A.S.A. 1947, § 19-1003.2; Acts 2017, No. 879, § 18.

Amendments. The 2017 amendment substituted "council members" for "aldermen" in the section heading and made similar changes throughout the section; in (a)(2), substituted "may vote" for "shall have the right to vote" and substituted "council member" for "and every alderman"; substituted "a city of the first class may provide by ordinance that each council member" for "any such city is empowered and authorized to provide, by ordinance, that the aldermen" in (b)(1); and deleted "so" following "When" in (b)(2).

14-43-310. Council member ceasing to reside in ward.

If any duly elected council member shall cease to reside in the ward from which he or she was elected, that person shall be disqualified to hold the office and a vacancy shall exist which shall be filled as prescribed by law.

History. Acts 1875, No. 1, § 51, p. 1; C. & M. Dig., § 7692; Pope's Dig., § 9835; Acts 1961, No. 444, § 1; A.S.A. 1947, § 19-1004; Acts 2017, No. 879, § 19.

Amendments. The 2017 amendment substituted "council member" for "alderman" in the section heading and the section.

14-43-311. Redistricting of wards.

(a)(1)(A) City councils in cities of the first class may redistrict the wards in their city when they determine that the people can best be served by adding wards, combining wards, or changing ward boundary lines to equalize the population in the various wards.

(B) The city council shall ensure that each ward has as nearly an equal population as would best serve the interest of the people of the city.

(2)(A) Within ninety (90) days after redistricting, if one hundred (100) or more qualified electors in the city are dissatisfied with the redistricting of the city into wards, the electors may petition the circuit court.

(B) The court, after due hearing, may redistrict the city into such wards as the court shall deem best if the court finds that the redistricting action by the city council was arbitrary and capricious.

(b) At the next city election held, more than twenty (20) days after the approval of redistricted wards, there shall be elected from each of the new wards two (2) council members who shall organize the new city council at the first council meeting in January after their election.

(c)(1)(A) All council members elected in the city prior to redistricting of wards shall give up their positions to the new council members at the time for the organization of the new city council, as provided in subsection (b) of this section.

(B) From that date the terms of office of all previously elected council members shall cease and terminate.

(2)(A) It shall be lawful to increase the number of wards or continue the same number of wards without affecting the terms of office of incumbent council members of the city.

(B)(i) When the wards are reapportioned so as to increase the number of wards or readjust existing wards so that the wards contain nearly equal population, a council member who remains in his or her old ward, or part thereof, shall continue in office.

(ii) New council members shall be elected only for new wards actually formed out of the territory of old wards.

(d)(1) All clerk's costs and other costs incurred in the proceedings authorized in this section shall be paid by the persons at whose instance the services were rendered.

(2)(A) In case these proceedings result in the redistricting of the city into new wards, the compensation of those individuals making the redistricting shall be fixed by the circuit judge, certified to the city council, and paid out of the city treasury.

(B) This compensation shall not exceed the sum of twenty-five dollars ($25.00) each.

History. Acts 1885, No. 67, § 6, p. 92; 1905, No. 275, § 1, p. 693; C. & M. Dig., §§ 7720-7724, 7726; Pope's Dig., §§ 9890-9894, 9896; Acts 1973, No. 600, § 1; 1983, No. 253, § 1; A.S.A. 1947, §§ 19-1005 — 19-1007, 19-1009; Acts 2017, No. 879, § 20.

Amendments. The 2017 amendment substituted "may" for "shall have the authority to" in (a)(1)(A), and (a)(2)(B); substituted "council members" for "aldermen" in (b), twice in (c)(1)(A), once in (c)(1)(B), (c)(2)(A), and (c)(2)(B)(ii); substituted "The city council shall ensure" for "It shall be the duty of the council to see" in (a)(1)(B); substituted "the electors may" for "they shall have the authority to" in (a)(2)(A); inserted "city" in (a)(2)(B) and (c)(1)(A); and substituted "the wards contain nearly equal population, a council member who remains in his or her" for "such wards contain nearly equal population, the aldermen who remain in their" in (c)(2)(B)(i).

14-43-312. Council members in mayor-council cities of fewer than 50,000.

(a)(1) On the Tuesday following the first Monday in November 1966 and every two (2) years thereafter, the qualified voters of all cities of the first class having the mayor-council form of government with fewer than fifty thousand (50,000) inhabitants shall elect two (2) council members from each ward for a term of two (2) years, except that by ordinance any city of the first class may refer the question to voters to elect two (2) council members from each ward to four-year terms as more particularly set out in subdivision (a)(2)(A) of this section.

(2)(A) On or before February 1 of the election year when the procedure will go into effect, any city of the first class, by ordinance referred to and approved by the voters at the previous general election or at a special election called for that purpose, may elect two (2) council members from each ward to four-year terms, except for the initial terms as provided in subdivision (a)(2)(B) of this section.

(B)(i) If this procedure is adopted by ordinance referred to and approved by the voters of the city, the council member representing position number one from each ward shall be elected to a four-year term at the next general election.

(ii) The council member representing position number two from each ward shall be elected to an initial two-year term at the next election, and thereafter shall be elected to four-year terms, resulting in staggered terms with one (1) council member being elected to a four-year term from each ward every two (2) years.

(b)(1) The council members shall be designated as "council member number one" and "council member number two".

(2)(A) A candidate for the office of council member shall designate the number of the council member's office which the candidate is seeking on the petition filed under § 14-42-206.

(B) When this designation has been made, the candidate shall not be permitted thereafter to change the designation on that petition.

(C) The county clerk shall not accept a petition for filing that does not designate the number of the office for council member sought.

(D) Each city shall maintain in its records a document showing the name of each council member and the number of the office which the candidate holds.

(c)(1)(A) The city council may refer an ordinance to voters on the question of returning a city to electing council members to two-year terms.

(B) The ordinance shall be passed by a two-thirds vote of the city council before it is referred to and approved by voters at a general election.

(2) If the voters approve returning the city to electing council members to two-year terms, all council members shall be elected to two-year terms at the next general election and thereafter, except that those council members serving four-year terms shall complete their terms.

(3) The city council may not refer another question to voters on electing council members to four-year terms or on returning the city to electing council members to two-year terms unless at least four (4) years have passed since the last election on changing the terms of council members.

History. Acts 1965, No. 484, §§ 1, 2; A.S.A. 1947, §§ 19-1002.5, 19-1002.6; Acts 2001, No. 543, § 1; 2003, No. 244, § 1; 2005, No. 81, § 1; 2013, No. 503, § 1; 2017, No. 879, § 21.

Amendments. The 2017 amendment substituted "council members" for "aldermen" in the section heading and made similar changes throughout the section; and substituted "shall" for "will" in (a)(2)(B)(i) and twice in (a)(2)(B)(ii); and substituted "shall be" for "must be" in (c)(1)(B).

14-43-316. City clerk, treasurer, or clerk-treasurer in mayor-council cities of fewer than 50,000.

(a)(1) The qualified voters of cities of the first class having a population of fewer than fifty thousand (50,000) and having the mayor-council form of government shall elect on the first Tuesday following the first Monday in November, 1962, and every four (4) years thereafter:

(A) One (1) city clerk and, unless appointed pursuant to § 14-43-405, one (1) city treasurer; or

(B) One (1) city clerk-treasurer.

(2) The city clerk and city treasurer, or the city clerk-treasurer, shall hold office for four (4) years and until a successor is elected and qualified.

(b) The city clerk and the city treasurer, or the city clerk-treasurer, shall take the oath of office with the other city officials that are elected in the general election in 1962 and in that manner every four (4) years thereafter.

(c) The city clerk and city treasurer, or city clerk-treasurer, shall give the bond and perform the duties as are prescribed by law and shall receive a salary as is prescribed by ordinance in each of these cities.

(d) Each incumbent in any city having this population shall continue to be the city clerk, city treasurer, or city clerk-treasurer and receive the salary and perform the duties until a successor is elected and qualified.

History. Acts 1943, No. 248, § 1; 1951, No. 123, § 1; 1961, No. 430, § 1; A.S.A. 1947, § 19-1016; Acts 2001, No. 364, § 1; 2019, No. 383, § 7.

Amendments. The 2019 amendment deleted (a)(1)(A)(i); redesignated (a)(1)(A)(ii) as (a)(1)(A); substituted "One (1) city clerk and, unless appointed pursuant to § 14-43-405, one (1) city treasurer" for "One (1) city treasurer, unless appointed pursuant to § 14-43-405" in (a)(1)(A); and substituted "One (1)" for "A" in (a)(1)(B).

Subchapter 4 — Officers and Employees Generally

SECTION.
14-43-401. Mayor generally.
14-43-405. Treasurer — Clerk-treasurer in mayor-council cities.
14-43-411. Council member vacancy in mayor-council form of government.
14-43-412. Vacancies in other elected offices.

14-43-401. Mayor generally.

(a)(1) The mayor shall hold his or her office during the term for which he or she shall have been elected and until his or her successor shall have been elected and qualified.

(2) The mayor shall keep an office at some convenient place in the city, to be provided by the city council, and shall keep the corporate seal of the city in his or her charge.

(b)(1)(A) In case of the mayor's death, disability, resignation, or other vacation of his or her office, the city council, by vote of a majority of all its members, may appoint some other person to act until the expiration of his or her term or disability if the unexpired term of his or her office is less than one (1) year. Otherwise, an election shall be ordered in accordance with the laws of the state.

(B) A removal from the city shall be deemed a vacation of his or her office.

(2)(A) In all cases in which the unexpired term has one (1) year or more to run and a special election has been called to fill the vacancy in the office of mayor, the city governing body may appoint a qualified elector of the city, including any member of the city council, to serve as acting mayor until the office is filled at the special election.

(B) A member of the council shall not vote on his or her own appointment.

History. Acts 1875, No. 1, § 53, p. 1; C. & M. Dig., §§ 7695, 7696; Pope's Dig., §§ 9838, 9839; Acts 1977, No. 8, § 1; A.S.A. 1947, § 19-1012; Acts 2015, No. 339, § 1.

Amendments. The 2015 amendment redesignated (b)(1) as (b)(1)(A) and (B); in (b)(1)(A), substituted "the mayor's" for "his or her," inserted "city," and substituted "one (1) year" for "six (6) months"; redesignated (b)(2) as (b)(2)(A) and (B); and, in (b)(2)(A), substituted "in which" for "where," "one (1) year or more" for "more than six (6) months," and "may appoint a" for "is authorized to appoint any," and inserted "city."

14-43-405. Treasurer — Clerk-treasurer in mayor-council cities.

(a)(1) Each city of the first class having the mayor-council form of government may provide by ordinance for the election or appointment of its city treasurer.

(2)(A) The city council may designate by ordinance or resolution the city clerk as "clerk-treasurer", allowing one (1) person to assume the duties of both clerk and treasurer.

(B) The city council may combine the offices of clerk and treasurer to take effect at the next election under § 14-43-316 or when the offices are vacant.

(3) When one (1) person assumes the duties of both clerk and treasurer, the position shall not be separated during the elected clerk-treasurer's term unless the position is vacant.

(b) The term of office for these positions, combined or separate, is four (4) years.

History. Acts 1965, No. 484, § 4; A.S.A. 1947, § 19-1015.2; Acts 2001, No. 364, § 2; 2019, No. 336, § 2.

Amendments. The 2019 amendment added the (a)(2)(A) designation and added (a)(2)(B) and (a)(3).

14-43-411. Council member vacancy in mayor-council form of government.

(a)(1)(A) Whenever a vacancy occurs in the office of council member in a city of the first class having a population of less than twenty

thousand (20,000) according to the most recent federal decennial census, at the first regular meeting after the occurrence of the vacancy, the city council shall proceed to elect by a majority vote of the remaining members elected to the council a council member to serve for the unexpired term.

(B)(i) However, at least a quorum of the whole number of the city council shall remain in order to fill a vacancy.

(ii) The election by the remaining members of the city council is not subject to veto by the mayor.

(2) The person elected by the council shall be a resident of the ward where the vacancy occurs at the time of the vacancy.

(b) When a vacancy occurs in any position of council member in a city having a population of twenty thousand (20,000) or more according to the most recent federal decennial census, a new council member shall be chosen in the following manner:

(1) If the unexpired portion of the term of a council member exceeds one (1) year, at the first regular meeting after the occurrence of the vacancy, the city council shall proceed to either elect by a majority vote of the remaining members elected to the council a council member to serve for the unexpired term or call for a special election to be held in accordance with § 7-11-101 to fill the vacancy; or

(2) If the unexpired portion of the term of a council member is one (1) year or less, a successor shall be chosen by a majority vote of the members of the council.

History. Acts 1943, No. 154, § 1; 1981, No. 303, § 1; A.S.A. 1947, § 19-1026; Acts 1997, No. 202, § 1; 2005, No. 2145, § 28; 2007, No. 1049, § 47; 2009, No. 185, § 2; 2009, No. 385, § 2; 2009, No. 1480, § 65.

Publisher's Notes. This section is being set out to correct references throughout from "alderman" to "council member", for consistency with Acts 2017, No. 879.

14-43-412. Vacancies in other elected offices.

(a) In case any office of an elected officer, except council members of the ward, becomes vacant before the expiration of the regular term, then the vacancy shall be filled by the city council until a successor is duly elected and qualified.

(b) The successor shall be elected for the unexpired term at the first general election that occurs after the vacancy has happened.

History. Acts 1875, No. 1, § 63, p. 1; C. & M. Dig., § 7746; Pope's Dig., § 9941; A.S.A. 1947, § 19-1027; Acts 2011, No. 134, § 1; 2017, No. 879, § 22.

Amendments. The 2017 amendment substituted "council members" for "aldermen" in (a).

Subchapter 5 — Powers and Duties Generally

SECTION.
14-43-501. Organization of governing body — Definition.
14-43-502. Powers of council generally.
14-43-504. Powers and duties of mayor generally.
14-43-506. Duties of city clerk.

14-43-501. Organization of governing body — Definition.

(a)(1) The members of a governing body elected for each city or town shall annually in January assemble and organize the governing body.

(2)(A) A majority of the whole number of members of a governing body constitutes a quorum for the transaction of business.

(B)(i) The governing body shall judge the election returns and the qualifications of its own members.

(ii) These judgments of the governing body are not subject to veto by the mayor.

(C)(i) The governing body shall determine the rules of its proceedings and keep a journal of its proceedings, and the journal shall be open to the inspection and examination of any citizen.

(ii) The governing body may also compel the attendance of absent members in such a manner and under such penalties as it prescribes.

(iii) The governing body may consider the passage of rules on the following subjects, including without limitation:

(a) The agenda for meetings;

(b) The filing of resolutions and ordinances; and

(c) Citizen commentary.

(b)(1)(A) In a mayor-council form of government, the mayor shall be ex officio president of the city council and shall preside at its meetings.

(B) The mayor shall have a vote to establish a quorum of the city council at any regular or special meeting of the city council and when his or her vote is needed to pass any ordinance, bylaw, resolution, order, or motion.

(2) In the absence of the mayor, the city council shall elect a president pro tempore to preside over council meetings.

(3) If the mayor is unable to perform the duties of office or cannot be located, one (1) of the following individuals may perform all functions of a mayor during the disability or absence of the mayor:

(A) The city clerk;

(B) Another elected official of the city if designated by the mayor; or

(C) An unelected employee or resident of the city if designated by the mayor and approved by the city council.

(c) As used in this section, "governing body" means the city council in a mayor-council form of government, the board of directors in a city manager form of government, and the board of directors in a city administrator form of government.

History. Acts 1875, No. 1, § 51, p. 1; C. & M. Dig., §§ 7738-7741; Pope's Dig., §§ 9934-9937; Acts 1981, No. 345, § 1; A.S.A. 1947, § 19-1010; Acts 2001, No. 354, § 1; 2005, No. 190, § 1; 2009, No. 185, § 3; 2011, No. 110, § 1; 2013, No. 753, § 1; 2015, No. 235, § 1.

Amendments. The 2015 amendment rewrote (a); added "In a mayor-council form of government" at the beginning of (b)(1)(A); inserted "or special" in (b)(1)(B); inserted "individuals" in (b)(3); and added (c).

14-43-502. Powers of council generally.

(a) The city council shall possess all the legislative powers granted by this subtitle and other corporate powers of the city not prohibited in it or by some ordinance of the city council made in pursuance of the provisions of this subtitle and conferred on some officer of the city.

(b)(1) The council shall have the management and control of finances, and of all the real and personal property belonging to the corporation.

(2)(A) The council shall provide the times and places of holding its meetings, which shall at all times be open to the public.

(B) The mayor or any three (3) council members of any city or town, regardless of size or classification, may call special meetings in the manner as may be provided by ordinance.

(3) The council shall appoint, or provide by ordinance, that the qualified voters of the city, of the wards, or districts as the case may require, shall elect all such city officers as shall be necessary for the good government of the city and for the due exercise of its corporate powers, and which shall have been provided by ordinance, as to whose appointment or election provision is not made in this subtitle and not provided by any general law of the state in reference to cities of the first class.

History. Acts 1875, No. 1, § 62, p. 1; C. & M. Dig., § 7744; Pope's Dig., § 9940; A.S.A. 1947, § 19-1011; Acts 2001, No. 365, § 1; 2017, No. 879, § 23.

Amendments. The 2017 amendment substituted "council members" for "aldermen" in (b)(2)(B).

14-43-504. Powers and duties of mayor generally.

(a) The mayor of the city shall be its chief executive officer and conservator of its peace. It shall be his or her special duty to cause the ordinances and regulations of the city to be faithfully and constantly obeyed.

(b) The mayor shall:

(1) Supervise the conduct of all the officers of the city, examine the grounds of all reasonable complaints made against them, and cause all their violations of duty or other neglect to be properly punished or reported to the proper tribunal for correction;

(2) Have and exercise the power conferred on sheriffs, within the city limits, to suppress disorder and keep the peace; and

(3) Perform such other duties compatible with the nature of his or her office as the city council may from time to time require.

(c) The mayor shall report, within the first ninety (90) days of each year and at such other times as he or she shall deem expedient, to the council the municipal affairs of the city and recommend such measures as may seem advisable.

(d)(1) In addition to the powers and duties already pertaining to that office, the mayor of any city of the first class shall be clothed with and exercise and perform the following:

(A) A mayor may veto within five (5) days, Sundays excepted, after the action of the city council thereon, any ordinance, resolution, or order adopted or made by the council, or any part thereof, which in his or her judgment is contrary to the public interest; and

(B)(i) In case of a veto, before the next regular meeting of the council, the mayor shall file in the office of the city clerk, to be laid before that meeting, a written statement of his or her reasons for so doing.

(ii) An ordinance, an order, or a resolution or part thereof, vetoed by the mayor is invalid unless, after the written statement is laid before it, the council, by a vote of two-thirds (2/3) of all the council members elected thereto, passes it over the veto.

(2) The mayor does not have the power of veto in circumstances prescribed under § 14-43-501(a) or § 14-43-411(a).

History. Acts 1875, No. 1, § 53, p. 1; 1885, No. 67, § 2, p. 92; 1893, No. 42, §§ 1, 2, p. 64; 1913, No. 226, § 1; C. & M. Dig., §§ 7697-7701; Pope's Dig., §§ 9840-9844; Acts 1979, No. 153, §§ 1, 2; A.S.A. 1947, §§ 19-1013, 19-1014; Acts 1991, No. 786, § 14; 1995, No. 534, § 2; 1995, No. 914, § 2; 2009, No. 161, § 1; 2009, No. 185, § 4; 2017, No. 879, § 24.

Amendments. The 2017 amendment substituted "council members" for "aldermen" in (d)(1)(B)(ii).

14-43-506. Duties of city clerk.

(a) The city clerk in cities of the first class shall have the custody of all the laws and ordinances of the city and shall keep a regular and correct journal of the proceedings of the city council.

(b)(1)(A) The city clerk, city clerk-treasurer, or city treasurer, as the case may be, shall submit monthly a full report and a detailed statement of the financial condition of the city.

(B) The report shall show receipts, disbursements, and balance on hand, together with all liabilities of the city.

(2) The report shall be submitted to the council in open session.

History. Acts 1875, No. 1, § 51, p. 1; C. & M. Dig., § 7694; Pope's Dig., § 9837; A.S.A. 1947, § 19-1018; Acts 2007, No. 71, § 1; 2017, No. 761, § 1.

Amendments. The 2017 amendment redesignated former (b)(1) as (b)(1)(A) and (b)(1)(B); substituted "shall submit monthly" for "shall be required to submit quarterly" in (b)(1)(A); and substituted "The" for "This" in (b)(1)(B).

Subchapter 6 — Powers over Municipal Affairs

SECTION.

14-43-607. Income tax.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two

uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

14-43-601. Municipal affairs delineated.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Justin Craig, Note: Municipal Police Power & Its Adverse Effects on Small Businesses in Arkansas: A Proposal for Reform, 36 U. Ark. Little Rock L. Rev. 177 (2014).

14-43-602. Authority generally.

CASE NOTES

Cited: Davis v. City of Blytheville, 2015 Ark. 482, 478 S.W.3d 214 (2015).

14-43-605. Alcoholic beverages.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Justin Wayne Harper, Note: A Spirited Revolution: Local Option Elections and the Impending Death of Prohibition in Arkansas, 38 U. Ark. Little Rock L. Rev. 527 (2016).

14-43-607. Income tax.

(a) After approval of a majority of those voting on the question in the municipality in a general or special election, a city of the first class may levy a tax on income of individual residents of that city.

(b) Upon the condition that a tax is levied pursuant to this section at the same or higher rate upon income of individual residents of that city, then after approval at the same election required in this section or at a subsequent election, the city may levy a tax on income earned by other individuals derived from activities, services rendered, or employment within the levying city.

(c) The rate of tax on income authorized by this section shall be a single percentage of the net income tax payable to the State of Arkansas.

(d)(1) One-half (½) of a taxpayer's income which is subject to a tax authorized by this section, in a city which is not his or her residence, shall be exempt from payment of the tax if a tax authorized by this section is levied by a city in which the taxpayer resides.

(2) The other one-half (½) of a taxpayer's income subject to a tax authorized by this section shall be exempt from payment of the tax authorized by this section in the city in which the taxpayer resides.

(e)(1)(A) The governing body of any city levying the tax authorized in this section and the Secretary of the Department of Finance and Administration are authorized and empowered to enter into a contractual agreement whereby the secretary shall collect any of the taxes assessed by the city, whether by withholding of income tax or otherwise, and remit them to the city.

(B) This agreement may also provide for a consideration to be allowed the secretary for services rendered in making such collections.

(2) The secretary may establish rules concerning the procedures for collecting these taxes by him or her.

History. Acts 1971, No. 266, § 4; A.S.A. 1947, § 19-1045; Acts 2019, No. 315, § 995; 2019, No. 910, § 3378.

Amendments. The 2019 amendment by No. 315 substituted "rules" for "regulations" in (e)(2).

The 2019 amendment by No. 910 substituted "Secretary of the Department of Finance and Administration" for "Director" in (e)(1)(A); and substituted "secretary" for "director" in (e)(1)(A), (B) and (e)(2).

CHAPTER 44

GOVERNMENT OF CITIES OF THE SECOND CLASS

SECTION.
14-44-103. Election of council members.
14-44-104. Vacancy in council member's office.
14-44-106. Vacancy in mayor's office.
14-44-107. Powers of mayor generally.
14-44-109. City marshal, recorder, and treasurer generally.
14-44-112. Vacancy in marshal's office.
14-44-114. Recorder-treasurer offices combined.
14-44-115. Election of recorder, treasurer, or recorder-treasurer.
14-44-116. Vacancy in office of recorder, treasurer, or recorder-treasurer.
14-44-117. [Repealed.]

14-44-103. Election of council members.

(a)(1) Except as provided under subdivision (a)(3) of this section, on the Tuesday following the first Monday in November 1982, and every two (2) years thereafter, the qualified voters in cities of the second class shall elect for each of the wards of these cities two (2) council members, who shall compose the city council.

(2) The qualified electors of every city of the second class shall elect from each ward of the city two (2) council members, who shall be designated as "council member number one" and "council member number two" of the ward.

(3)(A) A candidate for the office of council member shall designate the number of the council member's office that the candidate is seeking on the petition filed pursuant to § 14-42-206.

(B) When this designation has been made, the candidate shall not be permitted thereafter to change the designation on that petition.

(C) The county clerk shall not accept a petition for filing that does not designate the number of the office of council member sought.

(D) Each city shall maintain in its records a document showing the name of each council member and the number of the office which the candidate holds.

(4)(A) The city council of a city of the second class may refer to voters an ordinance on the question of electing the two (2) council members for each ward to four-year terms.

(B) The voters shall vote on the ordinance at a general election or at a special election called for that purpose by proclamation of the mayor in accordance with § 7-11-201 et seq. However, the election to approve the four-year election procedure shall be held no later than February 1 of the year of the general election in which the procedure is proposed to be effective.

(5)(A) If this procedure is adopted by ordinance referred to and approved by the voters of the city, the initial term for the council member designated as "council member number one" of each ward shall be a four-year term at the next general election.

(B) The initial term for the council member designated as "council member number two" of each ward shall be a two-year term at the next general election, and thereafter shall be a four-year term, resulting in staggered terms for the ward.

(6)(A) The city council may refer to voters an ordinance on the question of returning the city to electing council members to two-year terms using the procedures of subdivisions (a)(4)-(7) of this section.

(B) If the voters approve returning a city to two-year terms, all council members shall be elected to two-year terms at the next general election and thereafter.

(7) The city council may not refer to voters another question on electing council members to four-year terms or on returning the city to electing council members to two-year terms unless at least four (4) years have passed since the last election on changing the council members' terms.

(b)(1)(A) A candidate for the office of council member in a city of the second class shall reside in the ward from which he or she seeks to be elected and shall run for election at large, except if the council member is elected by ward under subsection (c) of this section.

(B) All of the qualified electors of the city may vote in the election.

(C)(i) Except as provided in subdivision (b)(1)(C)(ii) of this section, the election commissioners in the city shall ensure that the qualified electors of each ward have at least one (1) voting precinct in each ward where the resident electors of the ward may cast their ballots.

(ii) Subdivision (b)(1)(C)(i) of this section does not apply if the county board of election commissioners of the county in which the city is situated has established vote centers under § 7-5-101.

(2) If any duly elected council member shall cease to reside in the ward from which he or she was elected, that person shall be disqualified to hold the office and a vacancy shall exist, which shall be filled as prescribed by law.

(c)(1)(A) The city council of any such city may provide by ordinance that all council members be elected by ward, in which event each council member shall be voted upon by the qualified electors of the ward from which the person is a candidate.

(B)(i) When provided by city ordinance, the name of the candidate shall appear upon the ballot only in the ward in which he or she is a candidate.

(ii) The city council of these cities may provide for the election of one (1) council member from each ward citywide and the other council members from each ward by the voters of the ward only.

(2) All such cities choosing to elect all council members by wards or part by wards shall provide, in the manner provided by law, for the establishment of wards of substantially equal population in order that each council member elected from each ward shall represent substantially the same number of people in the city.

(d) Cities of the second class that elect their council members citywide may have one (1) public place only for holding elections.

History. Acts 1887, No. 10, § 1, p. 11; C. & M. Dig., § 7679; Pope's Dig., § 9801; Acts 1953, No. 184, §§ 1-3; 1961, No. 444, § 2; 1965, No. 484, § 3; 1969, No. 45, § 1; 1973, No. 501, § 1; 1981, No. 346, § 1; 1985, No. 421, § 1; A.S.A. 1947, §§ 19-1002.7, 19-1101 — 19-1101.3; Acts 2003, No. 328, §§ 1, 2; 2005, No. 2145, § 29; 2007, No. 1049, § 48; 2009, No. 1480, § 66; 2013, No. 503, § 2; 2017, No. 300, § 1; 2017, No. 879, § 25.

Amendments. The 2017 amendment by No. 300 added the (b)(1)(C)(i) and (b)(1)(C)(ii) designations; in (b)(1)(C)(i), substituted "Except as provided in subdivision (b)(1)(C)(ii) of this section" for "Provision shall be made by", substituted "the city shall ensure" for "these cities so", deleted "shall" preceding "have at least", and substituted "of the ward" for "thereof"; and added (b)(1)(C)(ii).

The 2017 amendment by No. 879 substituted "council members" for "aldermen" in the section heading and made similar changes throughout the section; substituted "may" for "shall be entitled to" in (b)(1)(B); substituted "may provide by ordinance" for "is empowered and authorized to provide, by ordinance" in (c)(1)(A); and deleted "so" following "When" in (c)(1)(B)(i).

14-44-104. Vacancy in council member's office.

(a) If a vacancy occurs in the office of council member in any city of the second class, at the first regular meeting after the occurrence of the vacancy, the city council shall proceed to elect, by a majority vote of the council, a council member to serve for the unexpired term.

(b) The election to fill the vacancy under subsection (a) of this section is not subject to veto by the mayor.

History. Acts 1927, No. 124, § 1; Pope's Dig., §§ 9802, 9942; A.S.A. 1947, § 19-1111; Acts 2013, No. 1325, § 1; 2017, No. 879, § 26.

Amendments. The 2017 amendment substituted "council member's" for "alderman's" in the section heading; substituted "council member" for "alderman" twice in (a); and substituted "If" for "Whenever" in (a).

14-44-106. Vacancy in mayor's office.

If a vacancy occurs in the office of mayor in any city of the second class, at the first regular meeting after the occurrence of the vacancy, the city council shall proceed to either elect by a majority vote of the council members a mayor to serve the unexpired term or call for a special election to be held in accordance with § 7-11-101 et seq. to fill the vacancy. At this election, a mayor shall be elected to serve the unexpired term.

History. Acts 1959, No. 54, § 1; 1967, No. 427, § 1; A.S.A. 1947, § 19-1110; Acts 1997, No. 645, § 4; 2005, No. 2145, § 30; 2007, No. 1049, § 49; 2009, No. 1480, § 67; 2017, No. 879, § 27.

Amendments. The 2017 amendment, in the first sentence, substituted "If" for "Whenever" and substituted "council members" for "aldermen"; and substituted "serve" for "fill out" in the last sentence.

14-44-107. Powers of mayor generally.

(a) The mayor in cities of the second class shall be ex officio president of the city council, shall preside at its meetings, and shall have a vote to establish a quorum of the council, or when the mayor's vote is needed to pass any ordinance, bylaw, resolution, order, or motion.

(b)(1) The mayor in these cities shall have the power to veto, within five (5) days, Sundays excepted, after the action of the council thereon, any ordinance, resolution, or order adopted or made by the council, or any part thereof, which in his or her judgment is contrary to the public interest.

(2)(A) In case of a veto, before the next regular meeting of the council, the mayor shall file in the office of the city recorder, to be laid before the meeting, a written statement of his or her reasons for so doing.

(B) An ordinance, resolution, or order, or part thereof, vetoed by the mayor shall not have any force or validity unless, after the written statement is laid before it, the council passes it over the veto by a vote of two-thirds (2/3) of all the council members elected thereto.

(c) If the mayor is unable to perform the duties of office or cannot be located, one (1) of the following may perform all functions of a mayor during the disability or absence of the mayor:

(1) The recorder;

(2) Another elected official of the city if designated by the mayor; or

(3) An unelected employee or resident of the city if designated by the mayor and approved by the city council.

History. Acts 1887, No. 10, § 1, p. 11; C. & M. Dig., § 7679; Pope's Dig., § 9801; Acts 1981, No. 346, § 1; A.S.A. 1947, § 19-1101; Acts 1997, No. 1122, § 1; 2013, No. 753, § 2; 2017, No. 879, § 28.

Amendments. The 2017 amendment, in (b)(2)(B), substituted "An" for "No", inserted "not", substituted "passes" for "shall pass", and substituted "council members" for "aldermen".

14-44-109. City marshal, recorder, and treasurer generally.

(a)(1)(A) At the time prescribed in this subtitle, the qualified voters of each city of the second class shall elect a city marshal, a city recorder, and a city treasurer.

(B) Each city marshal, city recorder, or city treasurer shall continue in office until his or her successor is elected and qualified.

(2)(A) The city council may provide by ordinance for the appointment of the city treasurer.

(B) An ordinance under subdivision (a)(2)(A) of this section shall be passed before the filing period begins for an election for the office of city treasurer, but no later than the February preceding the beginning of the early filing period.

(b) These officers shall have such powers and perform such duties as are prescribed in this subtitle, or as may be prescribed by any ordinance of the city, consistent with the provisions of this subtitle.

History. Acts 1875, No. 1, § 49, p. 1; 1881, No. 16, § 2, p. 29; C. & M. Dig., § 7682; Pope's Dig., § 9810; A.S.A. 1947, § 19-1103; Acts 2019, No. 234, § 1.

Amendments. The 2019 amendment, in (a), inserted the (a)(1)(A) and (a)(1)(B) designations; substituted "city marshal, city recorder, or city treasurer" for "of these officers" in (a)(1)(B); added (a)(2); and made stylistic changes.

14-44-112. Vacancy in marshal's office.

If a vacancy occurs in the office of marshal in any city of the second class, at the first regular meeting after the occurrence of the vacancy, the city council shall proceed to elect by a majority vote of all the council members a marshal to serve for the unexpired term.

History. Acts 1921, No. 450, § 1; Pope's Dig., § 9811; A.S.A. 1947, § 19-1112; Acts 2017, No. 879, § 29.

Amendments. The 2017 amendment substituted "If a vacancy occurs" for "Whenever a vacancy shall occur", and substituted "council members" for "aldermen".

14-44-114. Recorder-treasurer offices combined.

(a)(1) The city council of any city of the second class, if the city council deems it to be in the best interests of the city, and upon passage of an ordinance by a majority vote of the city council, may combine the offices of city recorder and city treasurer, authorizing one (1) person to hold this position.

(2) The city council may combine the offices of city recorder and city treasurer to take effect at the next election under § 14-44-109 or when the offices are vacant.

(b) When combined, the office shall be known as "city recorder-treasurer".

(c) When one (1) person assumes the duties of both recorder and treasurer, the position shall not be separated during the elected city recorder-treasurer's term unless the position is vacant.

History. Acts 1949, No. 42, § 1; A.S.A. 1947, § 19-1103.1; Acts 2019, No. 336, § 3.

Amendments. The 2019 amendment added the (a)(1) designation; in (a)(1), deleted "in the State of Arkansas" following "second class", inserted "city" preceding the second and third occurrences of "council", and deleted "thereby" preceding "authorizing"; added (a)(2); substituted "'city recorder-treasurer'" for "'recorder-treasurer for the city'" in (b); and added (c).

14-44-115. Election of recorder, treasurer, or recorder-treasurer.

(a) On the Tuesday following the first Monday in November, 1972, and every four (4) years thereafter, the qualified voters of cities of the second class shall elect a recorder, a treasurer, or a recorder-treasurer, as the case may be, for a term of four (4) years.

(b)(1) The city council may provide by ordinance for the appointment of the city treasurer.

(2) An ordinance under subdivision (b)(1) of this section shall be passed before the filing period begins for an election for the office of city treasurer, but no later than the February preceding the beginning of the early filing period.

History. Acts 1969, No. 272, § 1; A.S.A. 1947, § 19-1103.3; Acts 2001, No. 364, § 3; 2019, No. 234, § 2.

Amendments. The 2019 amendment designated the existing text as (a); and added (b).

14-44-116. Vacancy in office of recorder, treasurer, or recorder-treasurer.

If a vacancy occurs in the office of recorder, treasurer, or recorder-treasurer in any city of the second class, at the first regular meeting after the occurrence of the vacancy, the city council shall elect by a majority vote of all the council members a person to serve for the unexpired term.

History. Acts 1921, No. 450, § 1; Pope's Dig., § 9811; A.S.A. 1947, § 19-1112; Acts 2007, No. 62, § 1; 2017, No. 879, § 30.

Amendments. The 2017 amendment substituted "If a vacancy" for "Whenever a vacancy", and substituted "council members" for "aldermen".

14-44-117. [Repealed.]

Publisher's Notes. This section, concerning city collectors, was repealed by Acts 2019, No. 221, § 1, effective July 24, 2019. The section was derived from Acts 1929, No. 251, §§ 1-5; Pope's Dig., §§ 9804-9808; A.S.A. 1947, §§ 19-1105 — 19-1109.

CHAPTER 45

GOVERNMENT OF INCORPORATED TOWNS

SECTION.
14-45-101. Corporate authority.

SECTION.
14-45-102. Election of council members.

SECTION.
14-45-103. Vacancies.
14-45-105. Powers of mayor generally.
SECTION.
14-45-108. Election of recorder-treasurer.

14-45-101. Corporate authority.

(a) The corporate authority of incorporated towns shall vest in a town council composed of the five (5) council members who shall be qualified electors residing within the limits of the incorporated town and who shall hold office until their successors are elected and qualified.

(b) A majority of the whole number of council members shall constitute a quorum for the transaction of business.

History. Acts 1875, No. 1, § 41, p. 1; C. & M. Dig., § 7671; Acts 1937, No. 259, § 2; Pope's Dig., § 9793; Acts 1965, No. 483, § 1; 1981, No. 343, § 1; A.S.A. 1947, § 19-1201; Acts 2017, No. 879, § 31.

Amendments. The 2017 amendment substituted "council members" for "aldermen" in (a) and (b); and substituted "incorporated town" for "corporation" in (a).

14-45-102. Election of council members.

(a)(1) Except as provided in subdivision (a)(2) of this section, on the Tuesday following the first Monday in November 1982 and every two (2) years thereafter, the qualified voters of incorporated towns shall elect five (5) council members.

(2)(A) The town council of an incorporated town may refer to the voters an ordinance on the question of electing the five (5) council members to four-year terms.

(B)(i) The voters shall vote on the ordinance at a general election or at a special election called for that purpose.

(ii) The election to approve the four-year election procedure shall be held no later than February 1 of the year of the general election in which the procedure is proposed to be effective.

(C) If this procedure is adopted by an ordinance referred to and approved by the voters of the incorporated town, the initial terms for council members representing positions numbered "one", "three", and "five" shall be four-year terms at the next general election and the initial terms for council members representing positions numbered "two" and "four" shall be two-year terms and thereafter four-year terms, resulting in staggered terms.

(D)(i) The town council may refer to voters an ordinance on the question of returning the incorporated town to electing council members to two-year terms using the procedures of subdivision (a)(2) of this section.

(ii) If the voters approve returning an incorporated town to two-year terms, all council members shall be elected to two-year terms at the next general election and thereafter.

(E) The town council may not refer to voters another question on electing council members to four-year terms or on returning the incorporated town to electing council members to two-year terms

unless at least four (4) years have passed since the last election on changing the terms of council members.

(b)(1) A candidate for the office of council member shall designate the number of the office for council member that the candidate is seeking on the petition filed pursuant to § 14-42-206.

(2) If there is a designation under subdivision (b)(1) of this section, the candidate shall not change the designation on that petition.

(3) The county clerk shall not accept a petition for filing that does not designate the number of the office for council member sought.

(4) Each incorporated town shall maintain in its records a document showing the name of each council member and the number of the office that the candidate holds.

History. Acts 1875, No. 1, § 41, p. 1; C. & M. Dig., § 7671; Acts 1937, No. 259, § 2; Pope's Dig., § 9793; Acts 1965, No. 483, § 1; 1981, No. 343, § 1; A.S.A. 1947, § 19-1201; Acts 2005, No. 46, § 1; 2013, No. 503, § 3; 2017, No. 879, § 32.

Amendments. The 2017 amendment substituted "council members" for "aldermen" in the section heading and made similar changes throughout the section; inserted "incorporated" in (a)(2)(C), (a)(2)(D)(i), (a)(2)(E), and (b)(4); and substituted "an incorporated town" for "a town" in (a)(2)(D)(ii).

14-45-103. Vacancies.

(a) When a vacancy occurs in the office of council member in an incorporated town, at the first regular meeting after the occurrence of the vacancy, the town council shall elect by a majority vote of the town council a council member to serve for the unexpired term.

(b) When a vacancy occurs in the office of recorder-treasurer in an incorporated town, at the first regular meeting after the occurrence of the vacancy, the town council shall elect by a majority vote of the town council a recorder-treasurer to serve for the unexpired term.

(c) When a vacancy occurs in the office of mayor in an incorporated town, at the first regular meeting after the occurrence of the vacancy, the town council shall:

(1) Elect by a majority vote of the council members a mayor to serve the unexpired term; or

(2)(A) Call for a special election to be held under § 7-11-101 et seq. to fill the vacancy.

(B) At the special election, a mayor shall be elected to complete the unexpired term.

History. Acts 1875, No. 1, § 43, p. 1; C. & M. Dig., § 7674; Acts 1937, No. 259, § 3; Pope's Dig., § 9796; A.S.A. 1947, § 19-1206; Acts 1989, No. 386, § 1; 2013, No. 978, § 1; 2017, No. 171, § 1; 2017, No. 879, § 33.

Amendments. The 2017 amendment by No. 171 added (b); redesignated former (b) as (c); and substituted "under" for "in accordance with" in (c)(2)(A).

The 2017 amendment by No. 879 substituted "council member" for "alderman" in (a) twice; and substituted "council members" for "aldermen" in (b)(1).

14-45-105. Powers of mayor generally.

(a) The mayor in incorporated towns shall be ex officio president of the town council, shall preside at its meetings, and shall have a vote when the mayor's vote is needed to pass any ordinance, bylaw, resolution, order, or motion.

(b)(1) The mayor in these towns shall have the power to veto, within five (5) days, Sundays excepted, after the action of the council thereon, any ordinance, resolution, or order adopted or made by the council, or any part thereof, which in his or her judgment is contrary to the public interest.

(2)(A) In case of a veto, before the next regular meeting of the council the mayor shall file a written statement of his or her reasons for the veto in the office of the town recorder-treasurer to be laid before the meeting.

(B) An ordinance, resolution, or order, or part thereof, vetoed by the mayor shall not have any force or validity unless, after the written statement is laid before it, the council passes it over the veto by a vote of two-thirds (⅔) of all the council members elected thereto.

(c) If the mayor is unable to perform the duties of office or cannot be located, one (1) of the following may perform all functions of a mayor during the disability or absence of the mayor:

(1) The recorder;

(2) Another elected official of the city if designated by the mayor; or

(3) An unelected employee or resident of the city if designated by the mayor and approved by the city council.

History. Acts 1875, No. 1, § 41, p. 1; C. & M. Dig., § 7671; Pope's Dig., § 9793; Acts 1981, No. 343, § 1; A.S.A. 1947, § 19-1201; Acts 2013, No. 753, § 3; 2017, No. 879, § 34.

Amendments. The 2017 amendment, in (b)(2)(B), substituted "An" for "No", inserted "not", substituted "passes" for "shall pass", and substituted "council members" for "aldermen".

14-45-108. Election of recorder-treasurer.

(a) The qualified voters of incorporated towns shall elect one (1) recorder-treasurer on the Tuesday following the first Monday in November 1982 and every four (4) years thereafter.

(b)(1)(A) The town council may provide by ordinance for the appointment of the town recorder-treasurer.

(B) An ordinance under subdivision (b)(1)(A) of this section shall be passed before the filing period begins for an election for the office of town recorder-treasurer, but no later than the February preceding the beginning of the early filing period.

(2) A town recorder-treasurer appointed under subdivision (b)(1)(A) of this section shall not administer the oath of office under § 14-42-106 or § 21-2-105.

History. Acts 1875, No. 1, § 41, p. 1; C. & M. Dig., § 7671; Acts 1937, No. 259, § 2; Pope's Dig., § 9793; Acts 1965, No. 483, § 1; 1981, No. 343, § 1; A.S.A. 1947,

§ 19-1201; Acts 2005, No. 1008, § 1; 2019, No. 234, § 3.

Amendments. The 2019 amendment designated the existing text as (a); and added (b).

CHAPTER 47

CITY MANAGER FORM OF MUNICIPAL GOVERNMENT

SECTION.
14-47-105. Forms of government.
14-47-107. Subsequent election on mayor-council form of government.
14-47-108. Effect of reorganization.
14-47-117. Assistant mayor.
14-47-120. Powers and duties of city manager.
14-47-124. Initiative and referendum.
14-47-131. Creation of new departments, etc.
14-47-132. Vacancy on municipal board, etc.
14-47-133. Appointees generally.
14-47-138. Competitive bidding required.
14-47-140. Powers and duties of mayor.

14-47-105. Forms of government.

(a) The form of government created by an organization under this chapter is called the management form of city government.

(b) The form of government of a municipality operating under the control of a municipal council, under either § 14-43-201 et seq. or § 14-44-101 et seq., is called the mayor-council form of government.

History. Acts 1921, No. 99, § 1; 1931, No. 226, § 1; Pope's Dig., § 10089; Acts 1957, No. 8, § 1; A.S.A. 1947, § 19-701; Acts 2017, No. 878, § 3.

Amendments. The 2017 amendment, in (b), substituted "under" for "pursuant to", and substituted "mayor-council" for "aldermanic".

14-47-107. Subsequent election on mayor-council form of government.

(a)(1)(A) After the expiration of six (6) years from the date on which the first board of directors takes office in a city organized under this chapter, a petition may be presented to the mayor by the board of directors by ordinance or by petition signed by electors equal in number to fifteen percent (15%) of the aggregate number of ballots cast for the position of mayor in the immediately preceding mayoral general election.

(B) Upon the receipt of a petition under this subdivision (a)(1), the mayor by proclamation shall submit the question of organization of the city under the mayor-council form of government at a special election to be held in accordance with § 7-11-201 et seq.

(2)(A) The proclamation shall be published at length one (1) time in a newspaper published in the city.

(B)(i) Notice of the election shall be published in a newspaper published in the city one (1) time a week for two (2) weeks, the first publication to be not less than fifteen (15) days before the date set for the election.

(ii) No other notice of the election is necessary.

(b) If the plan is not adopted by a majority of the voters voting upon that issue at the special election called, the question of adopting the mayor-council form of government shall not be resubmitted to the voters of the city for adoption within four (4) years thereafter. Then the question to adopt shall be resubmitted upon the presentation to the mayor of a petition signed by electors equal in number to fifteen percent (15%) of the aggregate number of votes cast for the position of mayor in the immediately preceding mayoral general election.

(c) At the special election for the submission or resubmission of the proposition, the ballots shall read:

"FOR the proposition to organize this city under the mayor-council form of government ..... ☐

AGAINST the proposition to organize this city under the mayor-council form of government ..... ☐"

(d)(1) The election thereupon shall be conducted, the votes canvassed, and the result declared in the same manner as provided by law in respect to other city elections.

(2)(A) The county board of election commissioners shall certify the result to the mayor.

(B) The result shall be conclusive and not subject to attack unless suit is brought within thirty (30) days after the certification by the county board of election commissioners in the circuit court of the county in which the city is situated to contest the certification.

(e)(1) Except as provided in subdivision (e)(2) of this section, if the majority of the votes cast on the issue are in favor of organization of the city under the mayor-council form of government, the city shall proceed to the election of all of the city officials who were subject to election in the city immediately before the date on which the city was organized under the management form of city government.

(2) At the time the reorganization is effective under this chapter:

(A) The mayor shall continue in office until the remainder of his or her term of office; and

(B) A member of the city board of directors shall become a member of the city council and shall continue in office until the remainder of his or her term of office.

(3) In a city that has a population of more than one hundred thousand (100,000) persons according to the most recent federal decennial census:

(A) A person who is on the ballot in 2020 to become a member of the city council shall serve a term of two (2) years if elected; and

(B) At the 2022 General Election, the newly elected city council members shall draw initial two-year or four-year terms to result in staggered four-year terms.

(f) If no suit is brought to contest the certification of the results of the election within the thirty-day period after the certification, the mayor shall file certificates stating that the proposition was adopted with the Secretary of State and county clerk of the county in which the city is situated.

(g)(1) The election of the city officials shall be held at the next time provided for the election of city officials under the statutes then in effect pertaining to the mayor-council form of government pertaining to the class of cities to which the particular city belongs.

(2)(A) All laws pertaining to the mayor-council form of government for such class of cities shall apply.

(B)(i) On the date as prescribed by such laws when newly elected city officials take office, the term of office of all members of the board of directors shall terminate, and the transition to the mayor-council form of government shall be completed.

(ii) If, under the mayor-council form of government, the terms of council members are staggered, determination shall be made by lot and the length of the terms fixed accordingly.

(h) The provisions of this section for converting to the mayor-council form of government shall be in addition to the right to change to the mayor-council or any other form of municipal government that may exist under present law.

(i)(1) When a municipality elects to adopt the mayor-council form of government in the manner provided in this section, the question of reorganizing the municipality under the manager form shall not be submitted to the electors within a period of six (6) years, and thereafter only in the manner provided in § 14-47-106.

(2) If the qualified electors of the municipality do not approve the organization of the municipality under the manager form of government at the election, the proposition shall not again be submitted to the electors of the city for a period of four (4) years, and then only in the manner provided in § 14-47-106.

History. Acts 1957, No. 8, § 26, as added by Acts 1957, No. 389, § 1; 1965, No. 22, § 1; 1965, No. 157, § 2; A.S.A. 1947, § 19-733; Acts 2005, No. 2145, § 32; 2007, No. 1049, § 51; 2009, No. 1480, § 69; 2013, No. 1291, § 1; 2017, No. 878, § 4; 2019, No. 1092, §§ 2, 3.

Amendments. The 2017 amendment substituted "mayor-council" for "aldermanic" in the section heading and throughout the section; substituted "council members" for "alderman" in (g)(2)(B)(ii); inserted "of government" in (i)(2); and made stylistic changes.

The 2019 amendment added the (a)(1)(A) and (B) and (a)(2)(A) and (B) designations; rewrote (a)(1)(A); substituted "Upon the receipt of a petition under this subdivision (a)(1)" for "Whereupon" in (a)(1)(B); substituted "a newspaper" for "some newspaper" twice in (a)(2); substituted "is necessary" for "shall be necessary" in (a)(2)(B)(ii); and rewrote (e).

14-47-108. Effect of reorganization.

(a)(1) A reorganization is effective when in connection with the reorganization of a municipality under this chapter an initial board of directors shall be elected and the respective terms of office of the directors commence or when changes are made under subdivision (a)(2)(D) of this section.

(2) Concurrent with the commencement of the terms of the directors:

(A) The office of mayor, as existing under the mayor-council form of government, all memberships on the city council, and all member-

ships on the board of public affairs shall become vacant, each of these offices being abolished as to cities reorganized under this chapter;

(B) Subject to subdivision (a)(2)(D) of this section and except as is otherwise provided for city attorneys in cities with the city manager form of government, the statutory term of office of the city treasurer, city clerk, city attorney, city marshal, and recorder in cities of the second class shall cease and terminate, and the incumbent of each of these offices shall remain in office subject to removal and replacement at any time by the board of directors;

(C) Subject to subdivision (a)(2)(D) of this section, in cities with the city manager form of government having a population of more than one hundred thousand (100,000) persons according to the most recent federal decennial census, the statutory term of office of the city attorney shall cease and terminate, and the incumbent city attorney shall remain in office subject to removal and replacement at any time by the city manager, if the authority is vested in the city manager through:

(i) An ordinance of the board of directors; or

(ii) An initiated measure adopted pursuant to Arkansas Constitution, Amendment 7;

(D) In cities with the city manager form of government having a population of more than one hundred thousand (100,000) persons according to the most recent federal decennial census, the statutory term of office of the city attorney shall cease and terminate, and the incumbent city attorney shall remain in office subject to removal and replacement at any time by the mayor if the authority is vested in the mayor under § 14-47-140; and

(E)(i) Every other executive officer or executive employee of the city, including, without limiting the foregoing, the city purchasing agent and the members hereinafter called "board members" of every other municipal board, authority, or commission, whether the office, employment, board, authority, or commission exists under statute or under any ordinance or resolution, whose official term of office or employment is fixed by statute, ordinance, or resolution, shall serve until the expiration of the term so fixed, after which the position held by each such executive officer, executive employee, or board member shall be filled through appointment by the board of directors, the appointees to hold at the will of the board. However, at any time in cities with the city manager form of government, the appointments shall be made by the mayor and appointees shall hold at the will of the mayor, if the mayor is authorized to make the appointments by:

(a) The board of directors, by ordinance; or

(b) An initiated measure adopted pursuant to Arkansas Constitution, Amendment 7.

(ii) Each such executive officer or executive employee serving on the effective date of the reorganization, and whose office or employment carries no fixed term created either by statute, ordinance, or resolution shall be subject to removal and replacement at any time by the board of directors or the mayor, if authorized.

(iii) However, the provisions of this subdivision (a)(2)(E) shall be subject to the provisions of subsection (b) of this section and to the exceptions therein contained.

(b)(1) It is expressly directed that a reorganization under this chapter shall not affect, impair, or terminate the employment of any city officers or employees whose employment is subject to, or regulated by, civil service laws.

(2)(A) The reorganization shall not operate to abolish, terminate, or otherwise affect any of the following departments, commissions, authorities, agencies, or offices of the city government then existing:

(i) Waterworks commission existing under §§ 14-234-301 — 14-234-309;

(ii) Sewer committee existing under § 14-235-206;

(iii) Airport commission existing under § 14-359-103;

(iv) Housing authority existing under § 14-169-208;

(v) Any board of civil service commissioners serving under § 14-49-201 et seq., § 14-50-201 et seq., § 14-51-201 et seq., or under any other statute enacted;

(vi) Auditorium commission existing under § 14-141-104;

(vii) Library trustees existing under § 13-2-502;

(viii) City planning commission existing under Acts 1929, No. 108, § 1 [repealed]; or

(ix) Board of commissioners of any improvement district.

(B)(i) The reorganization shall not terminate, impair, or otherwise affect the official status, tenure of office, or powers of the persons serving as commissioners, committee members, trustees, or members of any of the boards, authorities, commissions, agencies, or departments listed in this subdivision (b)(2).

(ii) This power, whether consisting of the power to appoint or the power to confirm appointments or nominations, as may be vested in the municipal council immediately prior to the reorganization in respect to the filling of vacancies on the boards, authorities, commissions, agencies, departments, or in the judgeships listed in this subdivision (b)(2)(B) shall be transferred to and vested in the board of directors or the mayor, if the mayor has appointment power pursuant to subdivision (a)(2)(E) of this section. Each appointee designated by the board or by the mayor, if authorized, to fill a vacancy in any such position shall serve for the statutory term, if any, applicable to the vacancy or, if there is no statutory term, shall serve at the will of the board or the mayor, if authorized.

History. Acts 1921, No. 99, § 3; Pope's Dig., § 10091; Acts 1957, No. 8, § 3; 1957, No. 226, § 1; A.S.A. 1947, § 19-703; Acts 2001, No. 1472, § 1; 2001, No. 1473, §§ 1, 2; 2003, No. 1185, § 28; 2003, No. 1185, § 29; 2007, No. 689, § 2; 2007, No. 729, § 1; 2017, No. 878, § 5.

Amendments. The 2017 amendment substituted "mayor-council" for "aldermanic" in (a)(2)(A).

14-47-117. Assistant mayor.

(a)(1) The board shall also elect from its membership an assistant mayor who shall serve in such capacity for two (2) years or until his or her tenure of office as a director expires, whichever period may be shorter. Provided, however, that the board may prescribe at its option a method to rotate the assistant mayor among all or part of its membership for a term of not less than six (6) consecutive months.

(2) The assistant mayor shall not be prohibited from serving in such a capacity for more than one (1) term.

(b)(1) The assistant mayor shall act as mayor during the absence or disability of the mayor.

(2)(A) If a vacancy in the office of mayor occurs, the assistant mayor shall perform the duties of mayor until a successor mayor is elected.

(B)(i) If the mayor shall be continuously absent or disabled for more than six (6) months, his or her office will automatically become vacant and a successor mayor shall be elected.

(ii)*(a)* A certificate of the city clerk or recorder, recorded in the record of the proceedings of the board, as to the absence or disability of the mayor or as to any vacancy in the office of mayor may be relied upon by all persons dealing with the municipality as conclusive evidence of the assistant mayor's authority to assume the powers of the mayor.

(b)(1) Where any such certificate is so recorded, upon the termination of the absence or disability of the mayor and the resumption by him or her of his or her official duties as such, the city clerk or recorder shall record in the records of the board a separate certificate attesting this fact.

(2) This separate certificate shall show the date of the termination of absence or disability and resumption of duties.

(c) [Repealed.]

History. Acts 1921, No. 99, § 8; Pope's Dig., § 10096; Acts 1957, No. 8, § 6; A.S.A. 1947, § 19-708; Acts 1997, No. 471, § 1; 2019, No. 383, § 8.

Amendments. The 2019 amendment repealed (c).

14-47-120. Powers and duties of city manager.

The city manager shall have the following powers and duties:

(1)(A) To the extent that such authority is vested in him or her through an ordinance enacted by the board of directors, a city manager may supervise and control all administrative departments, agencies, offices, and employees.

(B) In addition, in cities with a city manager form of government having a population of more than one hundred thousand (100,000) persons according to the most recent federal decennial census, the city manager also shall have the authority to supervise and control the city attorney and may remove and replace the city attorney at any time at the city manager's discretion if the city manager has been

given the authority to remove and replace the city attorney pursuant to § 14-47-108(a)(2);

(2) He or she shall represent the board in the enforcement of all obligations in favor of the city or its inhabitants which are imposed by law, or under the terms of any public utility franchise, upon any public utility;

(3) He or she may inquire into the conduct of any municipal office, department, or agency which is subject to the control of the board, in which connection he or she shall be given unrestricted access to the records and files of any such office, department, or agency and may require written reports, statements, audits, and other information from the executive head of the office, department, or agency;

(4)(A)(i) Except as provided in subdivision (4)(A)(ii) of this section, he or she shall nominate, subject to confirmation by the board, persons to fill all vacancies at any time occurring in any office, employment, board, authority, or commission to which the board's appointive power extends.

(ii) If the mayor has appointment power pursuant to § 14-47-108(a)(2)(E), the nominations shall be made by the mayor.

(B)(i) He or she may remove from office all officials and employees, including without limitation members of any board, authority, or commission who under laws, whether applicable to cities under the mayor-council or management form of government, may be removed by the city's legislative body.

(ii)*(a)* Removal by the city manager shall be approved by the board.

(b) Where, under the statute applicable to any specific employment or office, the incumbent may be removed only upon the vote of a specified majority of the city's legislative body, the removal of the person by the city manager may be confirmed only upon the vote of the specified majority of the members.

(C) The provisions of this subdivision (4) shall have no application to offices and employments controlled by any civil service or merit plan lawfully in effect in the city;

(5)(A) To the extent that, and under such regulations as the board may prescribe by ordinance, he or she may:

(i) Contract for and purchase, or issue purchase authorizations for, supplies, materials, and equipment for the various offices, departments, and agencies of the city government, and he or she may contract for, or authorize contracts for, services to be rendered to the city or for the construction of municipal improvements. However, in such connection, the board shall establish by ordinance a maximum amount, and each contract, purchase, or authorization exceeding the amount so established shall be effected after competitive bidding as required in § 14-47-138;

(ii) Approve for payment, out of funds previously appropriated for that purpose, or disapprove any bills, debts, or liabilities asserted as claims against the city. However, the board shall establish by ordi-

nance in that connection a maximum amount, and the payment or disapproval of each bill, debt, or liability exceeding that amount shall require the confirmation of the board or of a committee of directors created by the board for this purpose;

(iii) Sell or exchange any municipal supplies, materials, or equipment. The board shall establish by ordinance an amount, and no item or lot, to be disposed of as one (1) unit, of supplies, materials, or equipment shall be sold without competitive bidding unless the city manager shall certify in writing that in his or her opinion, the fair market value of the item or lot is less than the amount established by ordinance as prescribed; and

(iv) Transfer to any office, department, or agency, or he or she may transfer from any office, department, or agency to another office, department, or agency any materials and equipment.

(B) For the purpose of assisting the city manager in transactions arising under subdivisions (5)(A)(i)-(iii) of this section, the board may appoint one (1) or more committees to be selected from its membership. Or in the alternative, it may create one (1) or more offices or departments to be composed of personnel approved by the city manager. If for these purposes the board shall create any new office or department, the person appointed to fill the office or to head the department shall be responsible to the city manager and act under his or her direction;

(6) He or she shall prepare the municipal budget annually and submit it to the board for its approval or disapproval and be responsible for its administration after adoption;

(7) He or she shall prepare and submit to the board, within sixty (60) days after the end of each fiscal year, a complete report on the finances and administrative activities of the city during the fiscal year;

(8) He or she shall keep the board advised of the financial condition and future needs of the city and make such recommendations as to him or her may seem desirable;

(9) He or she shall sign all municipal warrants when authorized by the board to do so;

(10) He or she shall have all powers, except those involving the exercise of sovereign authority, which, under statutes applicable to municipalities under the mayor-council form of government or under ordinances and resolutions of the city in effect at the time of its reorganization, may be vested in the mayor; and

(11) He or she shall perform such additional duties and exercise such additional powers as may be lawfully delegated by ordinance to him or her by the board.

History. Acts 1921, No. 99, § 12; Pope's Dig., § 10100; Acts 1957, No. 8, § 7; A.S.A. 1947, § 19-712; Acts 1987, No. 25, § 1; 2001, No. 1790, § 1; 2003, No. 1185, § 30; 2017, No. 878, §§ 6, 7; 2019, No. 383, § 9.

Amendments. The 2017 amendment substituted "without limitation" for "without limiting the foregoing" in (4)(B)(i); and substituted "mayor-council" for "aldermanic" in (4)(B)(i) and (10).

The 2019 amendment substituted "§ 14-47-108(a)(2)(E)" for "§ 14-47-108(a)(2)(C)" in (4)(A)(ii).

14-47-124. Initiative and referendum.

(a) The initiative and referendum laws of this state are applicable to cities reorganized under this chapter.

(b) The number of signatures required upon any petition shall be computed upon the highest vote cast at the preceding general election for any position on the board of directors of the municipality.

(c) Except for a municipal referendum petition concerning a municipal bond, a sponsor shall be given sixty (60) days to circulate a municipal referendum petition.

History. Acts 1921, No. 99, § 17; Pope's Dig., § 10105; Acts 1957, No. 8, § 11; A.S.A. 1947, § 19-717; Acts 2015, No. 1093, § 1.

Amendments. The 2015 amendment added (c).

CASE NOTES

Applicability.

Sections 14-47-124 and 14-55-304 dictate a deadline within which to circulate a referendum petition, not file a referendum petition with the city clerk, and the statutes do not identify when the time commences; the statutes address the circulation of referendum petitions, not the filing of referendum petitions. Pritchett v. Spicer, 2017 Ark. 82, 513 S.W.3d 252 (2017).

Sections 14-47-124 and 14-55-304 did not make the referendum petition timely because the city set the deadline at 30 days, which comported with Ark. Const. Amend 7 (which amended Ark. Const., Art. 1, § 5); to the extent that a municipality enacts measures that comport with Amendment 7, then those measures control. Pritchett v. Spicer, 2017 Ark. 82, 513 S.W.3d 252 (2017).

14-47-131. Creation of new departments, etc.

(a) The board of directors may from time to time by ordinance:

(1) Create any new municipal:

(A) Department;

(B) Office;

(C) Employment;

(D) Board;

(E) Authority;

(F) Commission; or

(G) Agency;

(2)(A) Appoint the personnel to serve in the department, office, employment, board, authority, commission, or agency.

(B) However, the appointment of personnel shall be by the mayor if the mayor has appointment power pursuant to § 14-47-108(a)(2)(E);

(3) Fix the term of employment and compensation of each appointee; and

(4) Specify whether each appointee shall or shall not be subject to the city's civil service or merit system.

(b)(1) By ordinance, the board also, in the exercise of its discretion, may consolidate the office of city treasurer with the office of city clerk or such other office or position as the board, by ordinance, may charge with the responsibility of administering the financial affairs of the city.

(2) The board may:

(A) Delegate all of the duties of the city treasurer to the person holding that office or position in the city;

(B) Fill the consolidated office by appointment;

(C) Fix the term and compensation of the appointee; and

(D) Specify whether the appointee shall be subject to the city's civil service or merit system.

History. Acts 1921, No. 99, § 16; 1957, No. 8, § 10; 1959, No. 50, § 1; A.S.A. 1947, § 19-716; Acts 2001, No. 1473, § 4; 2019, No. 383, § 10.

Amendments. The 2019 amendment substituted "§ 14-47-108(a)(2)(E)" for "§ 14-47-108(a)(2)(C)" in (a)(2)(B).

14-47-132. Vacancy on municipal board, etc.

(a) Any vacancy on any municipal board or commission of any city of the first class having a population of fewer than fifty thousand (50,000) and having a city manager form of government shall be filled by a majority vote of the board of directors of the city or by the mayor, if the mayor has appointment power pursuant to § 14-47-108(a)(2)(E).

(b)(1) The provisions of this section shall apply to all existing boards and commissions and to all boards and commissions hereafter established in which vacancies are filled by the remaining members of the board or commission or by the city manager.

(2) The provisions of this section shall not be applicable to any Arkansas city which is divided by a state line from an incorporated city or town in an adjoining state.

History. Acts 1971, No. 74, §§ 1, 2; A.S.A. 1947, §§ 19-734, 19-735; Acts 2001, No. 1473, § 5; 2019, No. 383, § 11.

Amendments. The 2019 amendment substituted "§ 14-47-108(a)(2)(E)" for "§ 14-47-108(a)(2)(C)" in (a).

14-47-133. Appointees generally.

(a) Subject to the exceptions contained in § 14-47-108, every person appointed by the board of directors or by the mayor, if authorized as provided in § 14-47-108(a)(2)(E), to any municipal office, employment, or position or to membership on any board, authority, or commission shall serve for such time and shall receive such compensation as the board of directors may fix and determine by ordinance.

(b) This section is applicable even in respect to offices and employments which, under statutes applicable to the mayor-council form of government, were held for a fixed term or on a salary basis fixed by statute.

History. Acts 1921, No. 99, § 16; 1957, No. 8, § 10; A.S.A. 1947, § 19-716; Acts 2001, No. 1473, § 6; 2017, No. 878, § 8; 2019, No. 383, § 12.

Amendments. The 2017 amendment, in (b), substituted "is applicable" for "shall be applicable", and substituted "mayor-council" for "aldermanic".

The 2019 amendment substituted "§ 14-47-108(a)(2)(E)" for "§ 14-47-108(a)(2)(C)" in (a).

14-47-138. Competitive bidding required.

(a)(1) Before making a purchase of or contract for supplies, materials, or equipment and before obligating the city under a contract for the performance of services or for the construction of municipal improvements in which the anticipated cost to the city of the transaction exceeds the maximum amount established by the board of directors under the authority of § 14-47-120, opportunity for competitive bidding shall be given under such rules and regulations as the board may prescribe by ordinance, and the contract shall be consummated only on a bid approved by the city manager and by the board.

(2) Competitive bids may be accepted in the form of a written bid or by electronic media.

(b) The board, by ordinance, may waive the requirement of competitive bidding in exceptional situations where this procedure is not feasible, but lacking such exceptional situations, the board may not except any particular contract, purchase, or sale from the requirement of competitive bidding.

(c) All purchase and sale records of the city shall be open to public inspection.

History. Acts 1921, No. 99, § 16; 1957, No. 8, § 10; A.S.A. 1947, § 19-716; Acts 2017, No. 170, § 1.

Amendments. The 2017 amendment added (a)(2) and made stylistic changes.

14-47-140. Powers and duties of mayor.

(a)(1) Any municipality organized and operating under the city manager form of government may authorize the mayor of the municipality to have the following duties and powers by ordinance or by a majority of the qualified electors of the municipality by petition:

(A)(i) The power to veto an ordinance, a resolution, or an order adopted by the municipal board of directors.

(ii)*(a)* The municipal board of directors may override the veto by a two-thirds vote of the number of members of the board.

(b) The mayor shall be entitled to vote only in case of a tie vote, and his or her presence may be counted to establish a quorum for the conduct of business;

(B) The power to appoint, subject to confirmation by a majority of the members of the municipal board of directors, persons to fill vacancies on any board, authority, or commission of the municipality;

(C)(i) The power to hire the city manager and to designate the city manager to serve in the mayor's stead on any board or commission that requires the service of the chief executive officer of the city.

(ii) The power to hire the city manager under subdivision (a)(1)(C)(i) of this section is subject to:

(a) The approval of a majority of the members of the municipal board of directors; or

(b) Override by a two-thirds vote of the members of the municipal board of directors;

(D) The power to remove the city manager, subject to:

(i) The approval of a majority of the members of the municipal board of directors; or

(ii) Override by a two-thirds vote of the members of the municipal board of directors;

(E) The power to prepare and submit to the municipal board of directors for its approval the annual municipal budget;

(F) The power to hire the city attorney, subject to:

(i) The approval of a majority of the members of the municipal board of directors; or

(ii) Override by a two-thirds vote of the members of the municipal board of directors; and

(G) The power to remove the city attorney, subject to:

(i) The approval of a majority of the members of the municipal board of directors; or

(ii) Override by a two-thirds vote of the members of the municipal board of directors.

(2) If the ordinance under subdivision (a)(1) of this section is adopted by a two-thirds vote of the members of the municipal board of directors or the petition under subdivision (a)(1) of this section is approved by a majority of the qualified electors of the municipality, the mayor shall have the powers and duties authorized under subdivision (a)(1) of this section.

(3)(A) Subdivisions (a)(1) and (2) of this section do not apply to offices and employments controlled by any civil service or merit plan lawfully in effect in the municipality.

(B) In municipalities that maintain district courts, the district court judge and the district court clerk shall be elected and appointed in the manner prescribed by law.

(4) A mayor who has the duties and powers authorized under subdivision (a)(1) of this section shall be compensated with salary and benefits comparable to the salary and benefits of an official or employee of the municipality with similar executive duties and powers.

(b) If called by petition of the qualified electors of the municipality, the special election under this section shall comply with the following:

(1) A petition under subsection (a) of this section shall be filed with the clerk of the city;

(2) Each signature on a petition filed shall have been signed within one hundred eighty (180) days prior to filing;

(3) The clerk of the city shall note on the petition the date and time filed; and

(4) If a petition contains the signatures of electors equal in number to fifteen percent (15%) of the number of ballots cast for the mayor in

the last mayoral election, or if the mayor is not directly elected, for the director position receiving the highest number of votes in the last general election, then the clerk of the city shall deliver the petitions to the mayor who shall by proclamation submit the question to the electors at a special election, provided that:

(A) The clerk of the city shall verify the number of signatures and the authenticity of the signatures on the petition within ten (10) days of the date they are filed;

(B) If there are insufficient signatures on the petition, the petitioners shall not receive an extension for the petition; and

(C) If there is a sufficient number of signatures on the petition but the clerk of the city is unable to verify the required number of signatures and the authenticity of the signatures, then the petitioners shall be given ten (10) days to provide a sufficient number of verified signatures.

(c) The proclamation submitting the question under subsection (a) of this section to the qualified electors of the municipality shall be issued within three (3) working days of the date the clerk of the city verifies the number of signatures on the petition or within three (3) working days of the date a referendum ordinance is passed by the municipal board of directors.

(d) The special election shall be held not less than thirty (30) days nor more than one hundred twenty (120) days after the proclamation.

(e)(1) If two (2) or more groups file petitions seeking a special election under subsection (a) of this section and the petition filed first is declared insufficient, then the city clerk shall determine the sufficiency of the petition that was filed next in time.

(2) Upon a declaration that a petition is sufficient and first in time, then a petition filed after the first sufficient petition and before the special election shall be deemed moot and shall be destroyed.

(f) If an election held under subsection (a) of this section results in the adoption of the question under subsection (a) of this section, then the adopted question shall not be presented again to the electors for a period of four (4) years from the date of the election.

(g) If an election held under subsection (a) of this section results in the failure to adopt the question under subsection (a) of this section, then the failed question shall not be presented again to the electors for a period of two (2) years from the date of the election.

(h) Notice of the election shall be given by the clerk of the city by one (1) publication in a newspaper having general circulation within the city not less than ten (10) calendar days before the election.

(i) Within thirty (30) calendar days after completion of the tabulation of the votes, the mayor of the city shall proclaim the results of the election by issuing a proclamation and publishing it one (1) time in a newspaper having general circulation within the city.

(j) The results of the election as stated in the proclamation shall be conclusive unless a suit contesting the proclamation is filed in the circuit court in the county where the election took place within thirty (30) calendar days after the date of publication of the proclamation.

(k) If the question under subsection (a) of this section is approved at an election as provided in this section, that approval shall be final and shall continue in effect thereafter as long as authorized.

(l) The mayor shall continue to be selected under § 14-61-111.

(m) At the time of a transition after an election as provided in this section, the current mayor shall continue to serve until the end of his or her elected term.

History. Acts 2007, No. 689, § 1; 2011, No. 608, § 1; 2017, No. 260, § 7; 2019, No. 978, § 1.

Amendments. The 2017 amendment substituted "district courts, the district court judge and the district court clerk" for "municipal courts or police courts, the municipal judge, police judge, and the clerk of both courts" in (a)(3)(B).

The 2019 amendment, in (a)(1), substituted "powers by ordinance" for "powers if approved by the qualified electors of the municipality at an election called by the municipal board of directors by referendum", inserted "a majority of", and substituted "petition" for "initiative"; inserted "municipal" in (a)(1)(A)(i), (a)(1)(B), (a)(1)(E); added the (a)(1)(C)(i) designation; deleted "subject to the approval of a majority of members of the municipal board of directors" following the first occurrence of "city manager"; added (a)(1)(C)(ii); deleted "the approval" following "subject to" in the introductory languages of (a)(1)(D) and (a)(1)(F); added the (a)(1)(D)(i) designation; added (a)(1)(D)(ii); added the (a)(1)(F)(i) designation; in (a)(1)(F)(i) and (a)(1)(G)(i), inserted "The approval" and inserted "the" preceding "members"; added (a)(1)(F)(ii); added (a)(1)(G)(ii); inserted "the ordinance under subdivision (a)(1) of this section is adopted by a two-thirds vote of the members of the municipal board of directors or" in (a)(2); substituted "section do not" for "section shall not" in (a)(3)(A); substituted "petition" for "initiative" in the introductory language of (b); deleted former (e)(1); redesignated (e)(2) as (e)(1) and redesignated the remaining subdivision accordingly; and made stylistic changes.

CHAPTER 48

CITY ADMINISTRATOR FORM OF MUNICIPAL GOVERNMENT

SECTION.
14-48-102. Savings provisions.
14-48-104. Submission of governmental form question to electors.
14-48-105. Procedure to change to another form of government.
14-48-106. Effect of reorganization.
14-48-115. Mayor or director vacancy.
14-48-117. Powers and duties of city administrator.
14-48-120. Meetings of board of directors.

14-48-102. Savings provisions.

(a) When a city effects a change of government under this chapter, it shall remain subject to and controlled by all laws, except those inconsistent with this chapter which on the effective date of the reorganization applied to or governed the city, including, without limiting the foregoing, the laws relating to improvement districts.

(b) The city, as reorganized, shall have all of the rights, powers, and authority which it had immediately prior to reorganization and shall also be entitled to exercise any right, power, or authority, except those inconsistent with the provisions of this chapter, which are permitted cities organized under any other form of government.

(c) In cities having the commission form of government immediately preceding the adoption of the city administrator form of government, the board of directors elected under the authority of this chapter may organize or reorganize by ordinance duly adopted any municipal board, commission, authority, agency, or department under the general laws of the state for municipalities having the mayor-council form of government. However, no reorganization shall be lawful which impairs the validity of existing contracts.

(d) All bylaws, ordinances, and resolutions lawfully passed and in force in the city under its former organization and not in conflict with this chapter shall remain in force until altered or repealed by the board elected under the authority of this chapter.

(e) The territorial limits of the city shall remain the same as under its former organization. All rights and property of every description which were vested in it shall remain unimpaired by the reorganization provided for in this chapter.

(f) No existing right or liability either in favor of or against the city or any agency thereof, including, without limiting the foregoing, improvement districts and no suit or prosecution of any kind shall be affected by the change unless otherwise provided for in this chapter.

(g) No valid pledge or mortgage of the revenues or property of the city or of any agency or instrumentality thereof or of any municipal improvement district shall be impaired by the reorganization.

History. Acts 1967, No. 36, § 7; A.S.A. 1947, § 19-807; Acts 2017, No. 878, § 9.

Amendments. The 2017 amendment, in the first sentence of (c), substituted "under" for "pursuant to the authority provided in" and substituted "mayor-council" for "mayor-aldermanic".

14-48-104. Submission of governmental form question to electors.

(a) When petitions are filed with the county clerk containing the signatures of qualified electors of a municipality equal in number to fifteen percent (15%) of the aggregate number of votes cast at the preceding general municipal election for all candidates for mayor in cases in which a municipality operates under the mayor-council form of government or the commission form of government and, for all candidates for the office of director, then for the director position for which the greatest number of votes were cast in the case of a municipality operating under the city manager form of government, and the petition requests that an election be called to submit the proposition of organizing the municipality under the city administrator form of municipal government authorized by this chapter, then within ten (10) days after the filing of the petition, the county clerk shall certify to the Secretary of State the number of qualified electors whose signatures appear on the petitions.

(b) If the number of signatures certified by the clerk is equal to or greater than fifteen percent (15%) of the aggregate number of votes cast, as prescribed, the Secretary of State shall call by proclamation in

accordance with § 7-11-201 et seq. a special election to be held not more than ninety (90) days from the date of the clerk's certification.

(c)(1) The election shall be called to submit the proposition of organizing the municipality under the city administrator form of municipal government authorized by this chapter.

(2)(A) The proclamation shall be published one (1) time at length in a newspaper having a general circulation in the municipality.

(B) Notice of the election shall be published in the newspaper one (1) time a week for two (2) weeks, with the first publication to be not less than fifteen (15) days before the date set for the election.

(d) At the election, the proposition shall be submitted to the electors in substantially the following form:

"FOR the City Administrator form of government ..... ☐

AGAINST the City Administrator form of government ..... ☐"

(e)(1) The election shall be conducted, the votes canvassed, and the results declared in the same manner as is provided by law with respect to other city elections.

(2)(A) The county board of election commissioners shall certify the results of the election to the Secretary of State.

(B) The result certified shall be conclusive and not subject to attack unless suit is brought to contest the certification within fifteen (15) days after such certification in the circuit court of the county in which the municipality is situated.

(f) If a majority of the votes cast at the election shall be in favor of the proposition and no suit is brought to contest the certification of the results of the election within the fifteen-day period after the certification by the election board, then, within five (5) days, the Secretary of State shall file certificates stating that the proposition was adopted with the county clerk of the county in which the municipality is situated.

(g) The cost of the election provided in this section shall be paid by the city.

History. Acts 1967, No. 36, § 2; A.S.A. 1947, § 19-802; Acts 2005, No. 2145, § 34; 2007, No. 1049, § 53; 2009, No. 1480, § 71; 2017, No. 878, § 10.

Amendments. The 2017 amendment, in (a), substituted "are filed" for "shall be filed", substituted "cases in which" for "cases where", and substituted "mayor-council" for "aldermanic".

14-48-105. Procedure to change to another form of government.

(a) When the question of the adoption of the city administrator form of government is submitted to, and approved by, a majority of the qualified electors of a municipality voting on the issue, the question of changing to another form of government shall not again be submitted to the electors of that municipality for a period of four (4) years.

(b)(1)(A)(i) After the expiration of four (4) years from the date on which the first board of directors and mayor take office in a city organized under this chapter, a petition signed by electors equal in number to fifteen percent (15%) of the aggregate number of ballots

cast for all candidates for mayor in the preceding general election may be presented to the mayor, calling for an election to consider any other form of municipal government authorized by the laws of this state.

(ii) As an alternative to the petition presented to the mayor by electors under subdivision (b)(1)(A)(i) of this section, a petition may be presented to the mayor by the board of directors by ordinance.

(B) At the time the reorganization is effective under this chapter:

(i) The mayor shall continue in office until the remainder of his or her term of office; and

(ii) The member of the city board of directors shall become a member of the governing body and shall continue in office until the remainder of his or her term of office.

(2)(A)(i) Upon the receipt of a petition under subdivision (b)(1)(A) of this section, the mayor by proclamation in accordance with § 7-11-201 et seq. shall submit the question of organization of the city under the form of government stated in the petition at a special election to be held at a time specified therein.

(ii) The proclamation shall be published one (1) time at length in a newspaper having a general circulation in the city.

(B)(i) Notice of the election shall be published one (1) time a week for two (2) weeks in a newspaper having a general circulation in the city, the first publication to be not less than fifteen (15) days before the date set for the election.

(ii) No other notice of the election is necessary.

(c) At the special election for the submission or resubmission of the proposition, the ballots shall read:

"FOR the proposition to organize this City under the ..... form of government ..... ☐

AGAINST the proposition to organize this City under the ..... form of government ..... ☐

The name of the form of government specified in the petition for election shall be printed on the ballot in lieu of the blank lines appearing above.

(d)(1) The election shall be conducted, the votes canvassed, and the results declared in the same manner as provided by law in respect to other city elections.

(2)(A) The county board of election commissioners shall certify the results to the mayor.

(B) The results shall be conclusive and not subject to attack unless suit is brought in the circuit court of the county in which the city is situated to contest the certification within thirty (30) days after certification by the county board of election commissioners.

(e) If no suit is brought to contest the certification of the results of the election on the question of the form of government within the thirty-day period after certification, the mayor shall file certificates stating that the proposition was adopted with the Secretary of State and county clerk of the county in which the city is situated.

(f)(1)(A) If the majority of the votes cast on that issue shall be in favor of the adoption, the city shall thereupon proceed to the election

of all of the city officials required by the laws governing the form of government adopted.

(B) The election of the city officials shall be held at the next time provided for the election of city officials under the statutes then in effect pertaining to the form of government adopted for the class of cities to which the particular city belongs, and all laws pertaining to the form of government adopted for such class of cities shall apply.

(C)(i) On the date prescribed by these laws when newly elected city officials take office, the term of office of all members of the board and mayor shall terminate and the transition to the form of government adopted shall be completed.

(ii) If under the form of government adopted the terms of the officials elected are staggered, then determination shall be made by lot, and the length of the terms fixed accordingly.

(2) The provisions of this section for converting to another form of government shall be in addition to the right to change to any other form of municipal government that may exist under present law.

(g) If the plan is not adopted by a majority of the voters voting upon that issue at the special election called, the question of adopting that same form of government shall not be resubmitted to the voters of that city for adoption within four (4) years thereafter. At that time the question may be resubmitted upon the presentation to the mayor of a petition signed by electors equal in number to fifteen percent (15%) of the aggregate number of votes cast for all candidates for mayor in the preceding general election.

(h)(1) When a municipality elects to adopt any other form of government in the manner provided in this section, the question of reorganizing the municipality under the city administrator form shall not be submitted to the electors within a period of four (4) years, and thereafter, only in the manner provided in § 14-48-104.

(2) If the qualified electors of the municipality do not approve the organization of the municipality under the city administrator form at the election, the proposition shall not again be submitted to the electors of the city for a period of four (4) years, and then, only in the manner provided in § 14-48-104.

History. Acts 1967, No. 36, § 18; A.S.A. 1947, § 19-818; Acts 2005, No. 2145, § 35; 2007, No. 1049, § 54; 2009, No. 1480, § 72; 2019, No. 1092, § 4.

Amendments. The 2019 amendment added the (b)(1)(A)(i) designation; added (b)(1)(A)(ii) and (b)(1)(B); substituted "Upon the receipt of a petition under this subdivision (b)(1)(A) of this section" for "Whereupon" in (b)(2)(A)(i); substituted "a newspaper" for "some newspaper" twice in (b)(2); and substituted "is necessary" for "shall be necessary" in (b)(2)(B)(ii).

14-48-106. Effect of reorganization.

(a)(1) When, in connection with the reorganization of a municipality under this chapter, an initial board of directors shall be elected, the reorganization shall be deemed to be effective as of the time when the respective terms of office of the directors commence.

(2) Concurrently with the commencement of the terms of the directors:

(A) The office of mayor and the offices of the members of the city council in the case of the mayor-council form of government, the office of mayor and the offices of the other members of the board of commissioners in the case of the commission form of government, and the office of the mayor, the board of directors, and the city manager in the case of the city manager form of government shall become vacant;

(B) The statutory term of office of the city treasurer, city clerk, city attorney, city marshal, and recorder in cities of the second class shall cease and terminate. The incumbent of each of these offices shall remain in office subject to removal and replacement at any time by the city administrator, with the approval of the board of directors; and

(C)(i) Every other executive officer or executive employee of the city, including, without limiting the foregoing, the city purchasing agent and the members, hereinafter called "board members", of every other municipal board, authority, or commission, whether such office, employment, board, authority, or commission exists under statute or under any ordinance or resolution, whose official term of office or employment is fixed by statute, shall serve until the expiration of the term so fixed. Any of the executive officers or executive employees of the city and members of municipal boards, authorities, or commissions whose respective term of office is fixed by ordinance or resolution shall continue to serve until the expiration of the term so fixed or until the term is modified by ordinance or resolution. Thereafter, the position held by any such executive officer, employee, or board member shall be filled through appointment by the city administrator, with the approval of the board of directors, and the appointees shall hold their position at the will of the city administrator and the board of directors. However, definite terms may be provided for board members by ordinance.

(ii) Every executive officer, employee, or board member serving on the effective date of the reorganization whose office, employment, or board membership carries no fixed term created either by statute, ordinance, or resolution shall be subject to removal and replacement at any time by the board of directors.

(iii) The provisions of subdivision (a)(2)(C) of this section providing that the term of office of board members shall be held at the will of the city administrator and the board of directors shall have no application to the statutory term, if any, of the boards, authorities, or commissions listed in subdivision (b)(2)(A) of this section.

(b)(1) Reorganization under this chapter shall not affect any civil service plan in effect for any city employees at the time of reorganization, except that commissioners, as their terms expire, shall thereafter be appointed by the city administrator, with the approval of the board of directors, and any city organized under this chapter which has no civil service plan at the time of reorganization may adopt a plan

pursuant to the provisions of any statute under which it otherwise qualifies.

(2)(A) Reorganization under this chapter shall not operate to abolish or terminate any of the following listed departments, commissions, authorities, or agencies of the city government:

(i) Waterworks commission existing under §§ 14-234-301 — 14-234-309;

(ii) Sewer committee existing under § 14-235-206;

(iii) Airport commission existing under § 14-359-103;

(iv) Housing authority existing under § 14-169-208;

(v) Any board of civil service commissioners serving under § 14-49-201 et seq., § 14-50-201 et seq., or § 14-51-201 et seq.;

(vi) Auditorium commission existing under § 14-141-104;

(vii) Library trustees existing under § 13-2-502;

(viii) City planning commission existing under § 14-56-404; and

(ix) Parking authority existing under § 14-304-101 et seq.

(B)(i) The reorganization shall not terminate, impair, or otherwise affect the official status, statutory tenure of office, if any, or powers of the persons serving as commissioners, committeemen, trustees, or members of any of the boards, authorities, commissions, agencies, or departments listed in subdivision (b)(2)(A) of this section, except as specifically provided by this chapter.

(ii) Whether consisting of the power to appoint or the power to confirm appointments or nominations, such power as may be vested in the mayor and the municipal council or in the mayor and other municipal legislative body immediately prior to the reorganization in respect to the filling of vacancies on the boards, authorities, commissions, agencies, or departments listed in subdivision (b)(2)(A) of this section shall be transferred to, and vested in, the city administrator, with the approval of the board of directors. Each appointee designated by the city administrator, with the approval of the board of directors, to fill a vacancy on any of these bodies shall serve for the statutory term, if any, applicable to the vacancy or, if there is no statutory term, shall serve at the will of the board. The boards, authorities, commissions, agencies, or departments listed in subdivision (b)(2)(A) of this section may be required by the board of directors, by ordinance duly adopted, to purchase all vehicles, equipment, materials, supplies, and services through a central municipal purchasing agent or department. The boards, authorities, commissions, agencies, or departments may be required to adopt and conform to the city personnel policies duly adopted by ordinance or resolution, including, but not limited to, the amount and form of remuneration, job classification, and civil service plans.

History. Acts 1967, No. 36, § 7; A.S.A. 1947, § 19-807; Acts 2003, No. 1185, § 32; 2017, No. 878, § 11.

Amendments. The 2017 amendment substituted "mayor-council" for "mayor-aldermanic" in (a)(2)(A).

14-48-115. Mayor or director vacancy.

In the case of a vacancy in the office of mayor or in the office of a member of the board of directors, the board, at the first regular meeting after the occurrence of the vacancy and by majority vote, shall appoint a person or call for a special election to be held in accordance with § 7-11-101 et seq. to fill the vacancy for the remainder of the unexpired term.

History. Acts 1967, No. 36, § 10; A.S.A. 1947, § 19-810; Acts 2005, No. 2145, § 38; 2007, No. 234, § 2; 2007, No. 1049, § 58; 2009, No. 1480, § 76; 2015, No. 384, § 1.

Amendments. The 2015 amendment rewrote the section.

14-48-117. Powers and duties of city administrator.

The city administrator shall have the following powers and duties:

(1) To the extent that such authority is vested in him or her through ordinance enacted by the board of directors, he or she may supervise and control all administrative departments, agencies, offices, and employees;

(2) He or she shall represent the board in the enforcement of all obligations in favor of the city or its inhabitants which are imposed by law or under the terms of any public utility franchise upon any public utility;

(3) He or she may inquire into the conduct of any municipal office, department, or agency which is subject to the control of the board. In this connection, he or she shall be given unrestricted access to the records and files of any office, department, or agency and may require written reports, statements, audits, and other information from the executive head of the office, department, or agency;

(4)(A) He or she shall nominate, subject to confirmation by the board, persons to fill all vacancies at any time occurring in any office, employment, board, authority, or commission to which the board's appointive power extends.

(B)(i) He or she may remove from office all officials and employees, including without limitation, members of any board, authority, or commission who, under existing or future laws, whether applicable to cities under the mayor-council, manager, or commission form of government, may be removed by the city's legislative body.

(ii)*(a)* Removal by the city administrator shall be approved by the board.

(b) When, under the statute applicable to any specific employment or office, the incumbent may be removed only upon the vote of a specified majority of the city's legislative body, the removal of the person by the city administrator may be confirmed only upon the vote of the specified majority of the board members.

(C) However, this subdivision (4) does not apply to offices and employments controlled by any civil service or merit plan lawfully in effect in the city;

(5)(A) To the extent that and under such regulations as by ordinance the board may prescribe:

(i) He or she may contract for and purchase, or issue purchase authorizations for, supplies, materials, and equipment for the various offices, departments, and agencies of the city government, and he or she may contract for, or authorize contracts for, services to be rendered to the city or for the construction of municipal improvements. In this connection, the board shall by ordinance establish a maximum amount, and each contract, purchase, or authorization exceeding the amount so established shall be effected after competitive bidding as required in § 14-48-129;

(ii) He or she may approve for payment out of funds previously appropriated for that purpose or disapprove any bills, debts, or liabilities asserted as claims against the city. The board shall by ordinance establish in that connection a maximum amount, and the payment or disapproval of each bill, debt, or liability exceeding that amount shall require the confirmation of the board or of a committee of directors created by the board for that purpose;

(iii) He or she may sell or exchange any municipal supplies, materials, or equipment. However, the board shall by ordinance establish a maximum value above which no item or lot designated to be disposed of as one (1) unit of supplies, materials, or equipment shall be sold or exchanged without competitive bidding unless the city administrator shall certify in writing that in his or her opinion the fair market value of the item or lot is less than the amount established by the ordinance as prescribed; and

(iv) He or she may transfer to any office, department, or agency or he or she may transfer from any office, department, or agency to another office, department, or agency any materials and equipment.

(B) For the purpose of assisting the city administrator in transactions arising under subdivisions (5)(A)(i)-(iii) of this section, the board may appoint one (1) or more committees to be selected from its membership. In the alternative, the board may create one (1) or more offices or departments to be composed of personnel approved by the city administrator. If, for such purposes, the board shall create any new office or department, the person appointed to fill the office or to head the department shall be responsible to the city administrator and act under his or her direction;

(6) He or she shall prepare the municipal budget annually and submit it to the board for its approval or disapproval and be responsible for its administration after adoption;

(7) He or she shall prepare and submit to the board within sixty (60) days after the end of each fiscal year a complete report on the finances and administrative activities of the city during the fiscal year;

(8) He or she shall keep the board advised of the financial condition and future needs of the city and make such recommendations as to him or her may seem desirable;

(9) He or she shall sign all municipal warrants when authorized by the board to do so;

(10) He or she shall have all powers except those involving the exercise of sovereign authority, which under statutes applicable to municipalities under the mayor-council form of government or under ordinances and resolutions of the city in effect at the time of its reorganization may be vested in the mayor;

(11) He or she shall perform such additional duties and exercise such additional powers as may by ordinance be lawfully delegated to him or her by the board; and

(12) He or she shall be the executive officer of the boards of improvement and shall supervise under the direction of those boards all work done by them.

History. Acts 1967, No. 36, § 11; A.S.A. 1947, § 19-811; Acts 2003, No. 1185, § 33; 2017, No. 878, §§ 12, 13.

Amendments. The 2017 amendment rewrote (4); and substituted "mayor-council" for "aldermanic" in (10).

14-48-120. Meetings of board of directors.

(a)(1) A majority of the elected membership of the board of directors shall constitute a quorum for the transaction of business.

(2) Except where otherwise provided by law, an affirmative vote of four (4) or more members shall represent the action of the board, and a like vote shall be required to suspend the rules.

(b) The board shall meet twice during each calendar month, and, until otherwise provided by ordinance, the meetings shall be held on the first and third Monday evenings of each calendar month unless that day is a legal holiday, in which case the meeting shall be held on the following evening.

(c)(1) Special meetings may be called by a majority of the membership of the board.

(2) The board may establish by ordinance the procedure for calling and giving notice of special meetings.

(d) All regular and special meetings of the board shall be open to the public.

(e)(1) Every motion, resolution, and ordinance adopted by the board, if approved by the mayor, shall be signed by the mayor and attested by the city clerk.

(2) Any ordinance, resolution, or motion for which the mayor has the power of veto and which is enacted or adopted over the veto of the mayor as authorized in this section shall be signed by the assistant mayor and attested by the city clerk.

(f) All laws in effect on February 2, 1967, regarding the proceedings of the city council of a city operating under the mayor-council form of government and not inconsistent with the provisions of this chapter, including those laws prescribing the procedure for the adoption, enactment, and publication of ordinances and resolutions, shall govern the proceedings of the board provided for in this section.

(g)(1)(A) All ordinances, resolutions, and motions adopted by the board at a regular or special meeting shall be delivered to the mayor within forty-eight (48) hours after the adoption thereof.

(B) The mayor shall have a period of three (3) days from the date of the receipt of any ordinance, resolution, or motion adopted by the board to approve or veto it. If he or she shall fail to approve or veto it within that period, it shall become law without his or her signature.

(2)(A) Any ordinance, resolution, or motion enacted or adopted by the board which is vetoed by the mayor may be enacted over the veto of the mayor by an affirmative vote of five (5) or more members of the board.

(B) When any ordinance, resolution, or motion of the board is vetoed by the mayor, it shall automatically be on the agenda for consideration of the board at the next regular meeting of the board and may be considered at a special meeting called in the manner authorized herein.

(h)(1) Each member of the board shall receive compensation for each regular meeting of the board which he or she attends but shall receive no compensation for attending a special meeting of the board.

(2) The compensation for each meeting shall be set by the board but shall not exceed one twenty-fourth of twenty percent (1/24 of 20%) of the compensation permitted municipal officers per annum by the Arkansas Constitution.

(i) The board may hold agenda meetings at such times, under such circumstances, and on such conditions as the board may prescribe for the purpose of informing itself of the business and affairs of the city. However, no official action of the board shall be taken at such meetings.

(j) The board shall adopt rules of order to govern the deliberations and meetings of the board.

(k) Any director who fails to attend five (5) consecutive regular meetings of the board or who fails to attend fifty percent (50%) of the regular meetings of the board held during a calendar year while he or she is a qualified member of the board shall be deemed to have resigned. A vacancy shall then exist in that position to be filled as provided in § 14-48-115.

History. Acts 1967, No. 36, § 9; A.S.A. 1947, § 19-809; Acts 2017, No. 878, § 14.

Amendments. The 2017 amendment substituted "mayor-council" for "mayor-aldermanic" in (f).

CHAPTER 51

CIVIL SERVICE FOR POLICE AND FIRE DEPARTMENTS

SUBCHAPTER.

3. Civil Service System.

Subchapter 3 — Civil Service System

SECTION.

14-51-301. Rules and regulations generally.

14-51-301. Rules and regulations generally.

(a)(1) The board provided for in this chapter shall prescribe, amend, and enforce rules and regulations governing the fire and police departments of its respective cities.

(2) The rules and regulations shall have the same force and effect of law.

(3) The board shall keep a record of its examinations and shall investigate the enforcement and effect of this chapter and the rules as provided for in this section.

(b) These rules shall provide for:

(1)(A) The qualifications of each applicant for appointment to any position on the police or fire department.

(B)(i)*(a)* A person must be at least eighteen (18) years of age and, except as provided in subdivision (b)(1)(C) of this section, must not have arrived at thirty-five (35) years of age to be eligible for appointment to any position on the fire department.

(b) The board may require a person to be at least twenty-one (21) years of age to be eligible for appointment to any position on the fire department.

(ii) A person shall meet the minimum standards established by the Arkansas Commission on Law Enforcement Standards and Training to be eligible for appointment to the police department affected by this chapter.

(C) However, the maximum age limit for appointment to any position with a fire department in subdivision (b)(1)(B)(i) of this section shall not apply to:

(i) Any person who has at least two (2) years of previous experience as a paid firefighter with another fire department and whose years of experience as a paid firefighter when subtracted from the person's age leaves a remainder of not more than thirty-two (32) years;

(ii) Any person who is applying for a position with a fire department in which the primary functions of the job involve duties that are administrative, managerial, or supervisory in nature; or

(iii) A current or former service member of the regular or reserve component of the uniformed services of the United States as defined under 10 U.S.C. § 101 who is within three (3) years of separation or retirement from the regular or reserve component of the uniformed services of the United States.

(2)(A) Open competitive examinations to test the relative fitness of applicants for the positions.

(B)(i) The examinations are to be protected from disclosure and copying, except that the civil service commission shall designate a period of time following the conclusion of testing in which an employee taking an examination shall be entitled to review his or her own test results.

(ii) During the employee review process, the employee may not copy test questions in any form whatsoever;

(3)(A) Public advertisement of all examinations by publication of notice in some newspaper having a bona fide circulation in the city and by posting of notice at the city hall at least ten (10) days before the date of the examinations.

(B) The examinations may be held on the first Monday in April or the first Monday in October, or both, and more often if necessary under such rules and regulations as may be prescribed by the board;

(4)(A)(i)*(a)* The creation and maintenance of current eligibles lists for each rank of employment in the departments, in which shall be entered the names of the successful candidates in the order of their standing in the examination. However, for ranks in each department where there may not be openings during the effective period of a list, the board may establish rules to create the eligibles list on an as-needed basis.

(b) If the board creates an eligibles list on an as-needed basis and a vacancy is created as a result of death, termination, resignation, demotion, retirement, or promotion, the chief of the fire department or police department shall notify the board within five (5) business days, and the board shall schedule an examination to establish an eligibles list from which an appointment or promotion shall be made unless the position is determined to be eliminated or not funded by the governing body of the city.

(ii)*(a)* A person is not eligible for examination for advancement from a lower rank to a higher rank until that person has served at least one (1) year in the lower rank, except in case of emergency, which emergency shall be decided by the board. The board shall determine the rank or ranks eligible to be examined for advancement to the higher rank.

(b) If the board designates an effective period for eligibles lists of more than one (1) year under subdivision (b)(4)(B)(i) of this section, a person shall be eligible for examination for advancement from a lower rank to a higher rank if the person is within twelve (12) months of meeting the time in service requirement for eligibility. However, if that person takes the examination and then is placed on the eligibles list for promotion, the person shall not be promoted from the eligibles list until the person meets the minimum service time requirement in the lower rank as established by the board.

(c) The eligibles list for promotion shall be certified within ninety (90) days upon completion of the examination process for advancement under this section.

(B)(i)*(a)* Unless the board designates a longer effective period for eligibles lists that is not less than one (1) year nor more than two (2) years, all lists for appointments or promotions as certified by the board shall be effective for the period of one (1) year.

(b)(1) If the period of the eligibles list is for more than one (1) year, the time period shall be established and certified before a component of the test is administered to an employee.

(2) After the eligibles list is certified, the time period shall not be extended.

(ii) At the expiration of this period, all right of priority under the lists shall cease;

(5)(A) The rejection of candidates as eligibles who fail to comply with reasonable requirements of the board in regard to age, sex, physical condition, or who have been guilty of a felony, or who have attempted fraud or deception in connection with the examination.

(B)(i) All applicants for appointment and all applicants for reinstatement shall undergo a suitable physical examination.

(ii)*(a)* The examination shall be conducted in the manner and form as provided by law.

(b) If no provision has been made by existing law for such examination, then the board may adopt proper rules and regulations to carry this subdivision (b)(5) into effect;

(6) Certification to the department head of the three (3) standing highest on the eligibility list for appointment for that rank of service, and for the department head to select for appointment or promotion one (1) of the three (3) certified to him or her and notify the commission thereof;

(7)(A) A period of probation not to exceed twelve (12) months for potential fire department appointees and at least one (1) year but no longer than two (2) years for potential law enforcement appointees before any appointment is complete and six (6) months before any promotion is complete.

(B) During the period, the probationer may be discharged in case of an appointment or reduced in case of promotion by the chief of police or the chief of the fire department;

(8)(A) Temporary employees without examination with the consent of the commission, in cases of emergency, and pending appointment from the eligibles list.

(B)(i) Except as provided in subdivision (b)(8)(B)(iii) of this section, a temporary promotion or appointment for a vacancy created by death, termination, resignation, demotion, retirement, or promotion shall not be made for longer than sixty (60) days when there is a current eligibles list, except to the extent necessary to comply with the Uniformed Services Employment and Reemployment Rights Act of 1994, 20 C.F.R. Part 1002, as in effect on January 1, 2015.

(ii) Except as provided in subdivision (b)(8)(B)(iii) of this section, in the absence of a current eligibles list, a temporary promotion or appointment may be allowed for a vacancy created by death, termination, resignation, demotion, retirement, or promotion until an eligibles list is certified unless the position is determined to be eliminated or not funded by the governing body of the city. A temporary promotion for a vacancy created by death, termination, resignation, demotion, retirement, or promotion shall not last longer than sixty (60) days, except to the extent necessary to comply with the Uniformed Services Employment and Reemployment Rights Act of 1994, 20 C.F.R. Part 1002, as in effect on January 1, 2015.

(iii) If an appeal is filed in connection with a vacancy that is created by a termination or demotion, the vacancy may be filled by a temporary promotion until all appeals in connection with the termination or demotion are exhausted.

(C) A vacancy that is created by vacation, bereavement leave, medical leave, military leave, or suspension on a day-to-day basis may be filled by a temporary promotion on a day-to-day basis as vacancies occur.

(D) An increase in salary beyond the limits fixed for the grade by the rules of the commission may be allowed while an employee is working outside of his or her grade while temporarily promoted to fill a vacancy under this subdivision (b)(8);

(9)(A)(i) Establishing eligibility lists for promotion based upon open competitive examinations.

(ii) The examinations are to be protected from disclosure and copying, except that the civil service commission shall designate a period of time following the conclusion of testing in which an employee taking an examination shall be entitled to review his or her own test results.

(iii) During the employee review process, the employee may not copy test questions in any form whatsoever.

(iv) The exams may include a rating of applicants based on results of written, oral, or practical examinations, length of service, efficiency ratings, and educational or vocational qualifications.

(v)*(a)* Lists shall be created for each rank of service and promotions made from the lists as provided in this section.

(b) Promotions shall be made within sixty (60) calendar days of a vacancy created by death, termination, resignation, demotion, retirement, or promotion unless the position is determined to be eliminated, except to the extent necessary to comply with the Uniformed Services Employment and Reemployment Rights Act of 1994, 20 C.F.R. Part 1002, as in effect on January 1, 2015.

(B) Advancement in rank or increase in salary beyond the limits fixed for the grade by the rules of the commission shall constitute a promotion;

(10) Suspension for not longer than thirty (30) calendar days and leave of absence;

(11)(A) Discharge or reduction in rank or compensation after promotion or appointment is complete, only after the person to be discharged or reduced has been presented with the reasons for the discharge or reduction in writing.

(B)(i) The person so discharged or reduced shall have the right, within ten (10) days from the date of notice of discharge or reduction, to reply in writing.

(ii) Should the person deny the truth of the reasons upon which the discharge or reduction is predicated and demand a trial, the commission shall grant a trial as provided in this chapter.

(iii) The reasons and the reply shall constitute a part of the trial and be filed with the record;

(12) The adoption and amendment of rules after public notice and hearing;

(13) The preparation of a record of all hearings and other proceedings before it, which shall be stenographically reported; and

(14) A review of complaints filed by any citizen pursuant to rules promulgated by the commission, including rules that give the commission the authority to consider certain personnel issues in executive session and to establish any necessary appellate procedures.

(c)(1) The board may prescribe, amend, and enforce rules and regulations that provide for and apply to a category of police officers whose promotion to any rank or grade below that of sergeant is exempted, in whole or in part, from subdivisions (b)(4) and (b)(9) of this section.

(2) If the board prescribes the rules and regulations authorized in subdivision (c)(1) of this section, the board shall prescribe criteria for the promotions.

(d) The commission shall adopt such rules not inconsistent with this chapter for necessary enforcement of this chapter, but shall not adopt any rule or rules which would authorize any interference with the day-to-day management or operation of a police or fire department.

History. Acts 1933, No. 28, § 3; Pope's Dig., § 9947; Acts 1959, No. 205, § 1; 1973, No. 101, § 1; 1977, No. 450, § 1; A.S.A. 1947, § 19-1603; Acts 1987, No. 262, § 1; 1987, No. 276, § 1; 1987, No. 657, § 3; 1989, No. 439, § 2; 1993, No. 206, § 8; 1995, No. 473, § 1; 1997, No. 542, § 1; 1997, No. 1221, § 1; 1999, No. 303, § 1; 2001, No. 1597, § 1; 2003, No. 280, § 1; 2005, No. 1953, § 1; 2007, No. 743, § 1; 2009, No. 527, §§ 1, 2; 2011, No. 1029, § 1; 2013, No. 468, § 1; 2013, No. 1061, § 2; 2015, No. 579, § 1; 2019, No. 192, § 1; 2019, No. 206, § 1.

Amendments. The 2015 amendment added "except to the extent...January 1, 2015" at the end of (b)(8)(B)(i) and (ii); and added "except to the extent...January 1, 2015" at the end of (b)(9)(A)(v)*(b)*.

The 2019 amendment by No. 192 added (b)(1)(C)(iii).

The 2019 amendment by No. 206 rewrote (b)(1)(B).

14-51-302. Departmental rules and regulations.

CASE NOTES

Authority to Regulate Employees.

Circuit court erred in reversing a civil service commission's decision upholding the termination of an employee because a fire department provided legitimate public-policy reasons behind its zero-tolerance policy on drug usage and the necessity for consistency in the application of that policy, and the employee violated the policy; there was overwhelming evidence of the employee's positive tests for methamphetamine, and the department had the authority to govern and regulate its employees. City of Little Rock v. Muncy, 2017 Ark. App. 412, 526 S.W.3d 877 (2017).

14-51-308. Suspension, discharge, or reduction in rank or compensation.

CASE NOTES

Analysis

Appeals.
—In General.
Attorney's Fees.
Jurisdiction.
Suspensions.
Terminations.

Appeals.

—In General.

Appeals from civil-service commissions under this section are not "[a]ppeals required by law to be heard by the Supreme Court" within Ark. Sup. Ct. R. 1-2(a)(8). While subdivision (e)(2)(A) of this section provides that a right of appeal is to the Supreme Court, this section was enacted in 1933, long before the Legislature was constitutionally empowered to create and establish the Court of Appeals. Civil-service-commission appeals pursuant to this section shall continue to be filed in the Court of Appeals unless there is another basis for Supreme Court jurisdiction under Rule 1-2. Bales v. City of Fort Smith, 2017 Ark. 161, 518 S.W.3d 76 (2017).

Attorney's Fees.

Employee's argument that the circuit court should have awarded him attorney's fees was moot because the Court of Appeals reversed the circuit court's decision, and thus the employee was no longer the prevailing employee. City of Little Rock v. Muncy, 2017 Ark. App. 412, 526 S.W.3d 877 (2017).

Jurisdiction.

Circuit court did not clearly err in finding that the local civil service commission made its initial decision on November 4, 2014, and that the 30-day time limit for a former employee to file his notice of appeal with the commission under this section was triggered on that date. Bales v. City of Fort Smith, 2017 Ark. App. 443, 528 S.W.3d 845 (2017).

Circuit court properly concluded that it lacked jurisdiction to hear a former city employee's wrongful termination case where he had filed the notice of appeal one day after the properly calculated 30-day period. Bales v. City of Fort Smith, 2017 Ark. App. 443, 528 S.W.3d 845 (2017).

Because this section and Ark. Dist. Ct. R. 9 are so interconnected concerning the procedural requirements for perfecting an appeal from a civil service commission decision to the circuit court, the Court of Appeals of Arkansas, Division Three, holds that the statutory filing requirements with respect to the commission are jurisdictional, as is true for Rule 9's filing requirements with respect to the circuit court. Accordingly, as is true for Rule 9's requirements, strict compliance is necessary, and substantial compliance will not suffice. Bales v. City of Fort Smith, 2017 Ark. App. 443, 528 S.W.3d 845 (2017).

Suspensions.

Decision to impose on the officer a 30-day suspension without pay was not clearly erroneous for purposes of this section; while the officer admittedly violated police department policy regarding the repair of a police vehicle and involved other officers, he had no evil intent, he had served admirably for 18 years, he took responsibility for his error in judgment, and the previous police chief had permitted the exercise of some discretion in deciding to handle minor repairs without formally adhering to reporting and repair protocol. Little Rock Police Dep't v. Phillips, 2017 Ark. App. 410, 526 S.W.3d 872 (2017).

Terminations.

Police officer's termination was appropriate because the Civil Service Commission entered a written order as required by the statute and thus, the circuit court had proper jurisdiction. As such, there was no basis to vacate and remand the circuit court's decision. Edgmon v. Little Rock Police Dep't, 2013 Ark. App. 470 (2013).

Circuit court erred in reversing a civil service commission's decision upholding the termination of an employee because a fire department provided legitimate public-policy reasons behind its zero-tolerance policy on drug usage and the neces-

sity for consistency in the application of that policy, and the employee violated the policy; there was overwhelming evidence of the employee's positive tests for methamphetamine, and the department had the authority to govern and regulate its employees. City of Little Rock v. Muncy, 2017 Ark. App. 412, 526 S.W.3d 877 (2017).

CHAPTER 52

MUNICIPAL POLICE DEPARTMENTS

SUBCHAPTER.

1. General Provisions.

Subchapter 1 — General Provisions

SECTION.

14-52-106. Annual vacation leave.
14-52-107. Uniform sick leave — Definition.

14-52-101. Authorized in cities.

CASE NOTES

Applicability

While the day-to-day duties of the chief of police and other officers of the police department in a city of the first and second class are under the direction and general superintendence of the mayor, the city council prescribes the police department's duties and defines its powers, i.e., makes the police department's policy. Brinkley v. City of Helena-West Helena, No. 2:11-cv-00207-SWW, 2014 U.S. Dist. LEXIS 116592 (E.D. Ark. Aug. 21, 2014).

Authority to establish police department policy in a city of the first (or second) class generally resides with the city council; the city council, not the former mayor, was the final policymaker for the City's police department when an former police officer allegedly applied excessive force in arresting plaintiff. Brinkley v. City of Helena-West Helena, No. 2:11-cv-00207-SWW, 2014 U.S. Dist. LEXIS 116592 (E.D. Ark. Aug. 21, 2014).

14-52-106. Annual vacation leave.

(a) The head or chief of each police department shall:

(1) Grant each employee annual vacation leave of not less than fifteen (15) working days with full pay; and

(2) Approve the use of annual vacation leave before the annual vacation leave is used.

(b) Unused annual vacation leave may accumulate to a maximum allowance as determined by ordinance of the municipality.

(c) Upon the first day after the end of the term of service or retirement, an employee may be paid for his or her unused accumulated vacation leave at the employee's regular rate of pay, not to exceed the maximum allowance under ordinance of the municipality.

History. Acts 1937, No. 250, § 2; Pope's Dig., § 9857; Acts 1939, No. 11, §§ 1, 2; 1953, No. 86, § 1; 1957, No. 415, § 1; 1963, No. 211, § 1; 1969, No. 68, § 1;

1981, No. 486, § 2; 1983, No. 46, § 1; A.S.A. 1947, § 19-1802; Acts 2019, No. 799, § 1.

Amendments. The 2019 amendment added "leave" in the section heading; designated the existing text as the introductory paragraph of (a) and (a)(1); substituted "Grant each employee annual vacation leave" for "arrange that each employee shall be granted an annual vacation" in (a)(1); added (a)(2); and added (b) and (c).

14-52-107. Uniform sick leave — Definition.

(a)(1) From and after April 11, 1969, all law enforcement officers, regardless of their titles, such as city marshal, employed by cities of the first and second class or incorporated towns shall accumulate sick leave at the rate of twenty (20) working days per year beginning one (1) year after the date of employment.

(2) If unused, sick leave shall accumulate to a maximum of sixty (60) days unless the city or town, by ordinance, authorizes the accumulation of a greater amount, in no event to exceed a maximum accumulation of ninety (90) days, except for the purpose of computing years of service for retirement purposes.

(b)(1) In cities having sick leave provisions through ordinance, the total sick leave accumulated by the individual officer shall be credited to him or her and new days accumulated under the provisions of this section until the maximum prescribed in subsection (a) of this section is reached.

(2) Time off may be charged against accumulated sick leave only for such days that an officer is scheduled to work. No such sick leave as provided in this section shall be charged against any officer during any period of sickness, illness, or injury for any days which the officer is not scheduled to work.

(c) If, at the end of his or her term of service, upon retirement or death, whichever occurs first, any police officer has unused accumulated sick leave, he or she shall be paid for this sick leave at the regular rate of pay in effect at the time of retirement or death. Payment for unused sick leave in the case of a police officer, upon retirement or death, shall not exceed sixty (60) days salary unless the city, by ordinance, authorizes a greater amount, but in no event to exceed ninety (90) days' salary.

(d)(1) A city of the first class, a city of the second class, and an incorporated town may adopt a catastrophic leave program by ordinance under § 14-42-123 to include a "presumptive illness list for municipal police department" under this section.

(2) As used in this section, a "presumptive illness list for municipal police department" means an illness that is chronic or fatal.

History. Acts 1969, No. 393, §§ 1-3; 1971, No. 241, §§ 1-3; 1983, No. 842, §§ 1-3; 1985, No. 181, § 1; 1985, No. 240, § 1; 1985, No. 892, § 1; A.S.A. 1947, §§ 19-1718 — 19-1720; Acts 2019, No. 883, § 2.

Amendments. The 2019 amendment added (d).

SUBCHAPTER 2 — OFFICERS

14-52-203. Duties of police officers.

CASE NOTES

Construction with Other Law.

While the day-to-day duties of the chief of police and other officers of the police department in a city of the first and second class are under the direction and general superintendence of the mayor, the city council prescribes the police department's duties and defines its powers, i.e., makes the police department's policy pursuant to § 14-52-101. Brinkley v. City of Helena-West Helena, No. 2:11-cv-00207-SWW, 2014 U.S. Dist. LEXIS 116592 (E.D. Ark. Aug. 21, 2014).

CHAPTER 53

MUNICIPAL FIRE DEPARTMENTS

SECTION.

14-53-101. Establishment in cities.
14-53-108. Uniform sick leave — Definitions.

14-53-101. Establishment in cities.

(a)(1) Except as provided in subdivision (a)(2) of this section, the city council shall establish fire departments and provide them with proper engines and such other equipment as shall be necessary to extinguish fires and preserve the property of the city and of the inhabitants from conflagration.

(2) In lieu of establishing its own fire department under this section, the city council by ordinance may enter into a contract or interlocal agreement for city fire protection with an existing fire department certified by the Arkansas Fire Protection Services Board.

(b) The city council shall promulgate rules to govern the fire department that the city council deems expedient.

History. Acts 1875, No. 1, § 6, p. 1; C. & M. Dig., § 7595; Pope's Dig., § 9681; A.S.A. 1947, § 19-2101; Acts 2015, No. 106, § 1.

Amendments. The 2015 amendment redesignated former (a) as (a)(1); added "Except as provided in subdivision (a)(2) of this section" to the beginning of present (a)(1); inserted (a)(2); and, in (b), inserted "city" preceding "council," substituted "rules" for "such rules and regulations," inserted "fire" preceding "department," and substituted "that the city council deems" for "as it shall deem."

14-53-108. Uniform sick leave — Definitions.

(a)(1)(A) From and after April 11, 1969, all firefighters employed by cities of the first class and cities of the second class shall accumulate sick leave in accordance with a municipal ordinance at the rate of not less than ten (10) working days nor more than twenty (20) working days per year, beginning one (1) year after the date of employment.

(B) As used in this section, "working day" means that period of time a firefighter is on duty within a twenty-four-hour period. If the firefighter is on duty for twelve (12) hours or more in a twenty-four-hour period, a working day shall be not less than twelve (12) hours nor more than twenty-four (24) hours.

(C) The number of days of sick leave in effect for firefighters employed by cities of the first class and cities of the second class on January 1, 2005, shall remain in effect until changed by authority of a municipal ordinance, and nothing in this section shall be construed to require a reduction in the level of sick leave below the rate of twenty (20) working days per year or the rate in effect on January 1, 2005.

(2)(A) If unused, sick leave shall accumulate to a maximum of one thousand four hundred forty (1,440) hours unless the city by ordinance authorizes the accumulation of a greater amount, in no event to exceed a maximum accumulation of two thousand one hundred sixty (2,160) hours.

(B) Unused accumulated sick leave shall not be used for the purpose of computing years of service for retirement purposes.

(b)(1) In cities having sick leave provisions through ordinance, the total sick leave accumulated by the individual firefighter shall be credited to him or her and new days accumulated under the provisions of this section until the maximum prescribed in subsection (a) of this section is reached.

(2) If the governing body of the employing municipality successfully reduces the accrual rate, no firefighter shall have any previously earned sick leave reduced in value.

(3) Time off may be charged against accumulated sick leave only for the days that a firefighter is scheduled to work. No sick leave as provided in this section shall be charged against any firefighter during any period of sickness, illness, or injury for any days that the firefighter is not scheduled to work.

(c)(1) If at the end of his or her term of service, upon retirement or death, whichever occurs first, any firefighter has unused accumulated sick leave, he or she shall be paid for this sick leave at the regular rate of pay in effect at the time of retirement or death.

(2) Payment for unused sick leave in the case of a firefighter, upon retirement or death, shall not exceed three (3) months' salary unless the city, by ordinance, authorizes a greater amount, but in no event to exceed four and one-half months' salary.

(d)(1) Cities of the first class, cities of the second class, and incorporated towns shall have the option of providing sick leave for firefighters to accumulate at a rate of fifteen (15) twenty-four-hour working days per year beginning with the date of employment and decreasing to twelve (12) twenty-four-hour working days beginning four (4) years after employment.

(2) Unused sick leave shall accumulate to firefighters provided with fifteen (15) twenty-four-hour working days per year sick leave and

twelve (12) twenty-four-hour working days per year sick leave to a maximum of one hundred (100) twenty-four-hour working days.

(e)(1) A city of the first class, a city of the second class, and an incorporated town may adopt a catastrophic leave program by ordinance under § 14-42-123 to include a "presumptive illness list for municipal fire department" under this section.

(2) As used in this section, a "presumptive illness list for municipal fire department" means an illness that is chronic or fatal.

History. Acts 1969, No. 393, §§ 1-3; 1971, No. 241, §§ 1-3; 1983, No. 842, §§ 1-3; 1985, No. 181, § 1; 1985, No. 240, § 1; 1985, No. 892, § 1; A.S.A. 1947, §§ 19-1718 — 19-1720; Acts 1987, No. 716, § 1; 1997, No. 412, § 1; 2005, No. 1828, § 1; 2019, No. 883, § 3.

Amendments. The 2019 amendment added (e).